

2007 DRAFTING REQUEST

Bill

Received: **09/25/2007**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Jerry Petrowski (608) 266-1182**

By/Representing: **Jason Bauknecht**

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

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - driver licenses**

Extra Copies: **BAB**

Submit via email: **YES**

Requester's email: **Rep.Petrowski@legis.wisconsin.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Motor vehicle operating privileges and operator's license seizure

Jacket returned for re-draft then they changed their mind
→ re-jacketed and re-sent (1/1") 02-18-2008

Instructions:

See Attached

Had to re-run jacketing because ARG had pulled it from hold.

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>
/?	agary 10/09/2007	wjackson 10/14/2007					S&L
/P1	agary 11/14/2007		jfrantze 10/15/2007		sbasford 10/15/2007		S&L
/1	agary 01/28/2008	wjackson 01/31/2008	rschluet 01/31/2008		sbasford 01/31/2008	cduerst 02/08/2008	
	agary 02/18/2008					mbarman 02/18/2008	

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For: "1" @ intro. 2-19-08 <END>

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Extra Copies: **BAB**

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/?	agary 10/09/2007	wjackson 10/14/2007					S&L
/P1	agary 11/14/2007 agary	<i>1 WLJ 1/31</i>	jfrantze 10/15/2007		sbasford 10/15/2007		

Handwritten signature and scribbles over the drafting history table, including the number 1318 and the letters NN.

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: 09/25/2007

Received By: agary

Wanted: As time permits

Identical to LRB:

For: Tamara Grigsby (608) 266-0645

By/Representing: Cindy McGinnis

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: Transportation - driver licenses

Extra Copies: BAB

Submit via email: YES

Requester's email: Rep.Grigsby@legis.wisconsin.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

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Topic:

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Instructions:

See Attached

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/?	agary 10/09/2007	wjackson 10/14/2007		_____			S&L
/P1			jfrantze 10/15/2007	_____	sbasford 10/15/2007		

FE Sent For:

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Wanted: **As time permits**

Identical to LRB:

For: **Tamara Grigsby (608) 266-0645**

By/Representing: **Cindy McGinnis**

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

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - driver licenses**

Extra Copies: **BAB**

Submit via email: **YES**

Requester's email: **Rep.Grigsby@legis.wisconsin.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

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/?	agary	/pl WLj 10/14					
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10/15

FE Sent For:

<END>

Bill Request Form

Legislative Reference Bureau
100 N. Hamilton Street
Legal Section. 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 9-20-07

Legislator, agency, or other person requesting this draft Rep. Grigsby

Person submitting request (name and phone number) Cindy 6-0645

Persons to contact for questions about this draft (names and phone numbers) Bob Anderson
Legal Action of WI 256-3304 x 106 Mitch Warren DOT

Describe the problem, including any helpful examples. How do you want to solve the problem? 6-1449

See attached labeled Bill #1

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2001 LRB-2345/1 or 1999AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES NO

If yes: Anyone who asks? YES NO
 Any legislator? YES NO

Only the following persons Bob Anderson or Mitch Warren
DOT

Do you consider this request urgent? YES NO If yes, please indicate why _____

Should we give this request priority over any pending request of this legislator, agency, or person? YES NO

DRIVER'S LICENSE LEGISLATION

At today's meeting (7/3/07) we talked about the following legislation in general:

- Mitch would be getting some information from the feds about whether the state still has the option of not making the drug suspension mandatory, or whether that option has lapsed.
- Mitch would also try to get information about whether the state is required to make the drug suspension begin with the date of application or whether it can begin with the date of eligibility.
- We will also try to get information about whether the suspension for failure to pay child support is a federal requirement or not.

There could be 2-3 packages of proposals or the proposals could be separate.

One package could include

- Eliminate all statutory provisions for suspensions to begin after application. Suspensions would begin with the date of eligibility for a license instead. DOT may have some draft language on this. This would have an effect on the drug suspension statute, as well as on the beginning of a suspension for juveniles, as well. The suspension for juveniles could begin with the day they reach age 16 – as a date that their eligibility would begin. At that age, a juvenile would begin a six month suspension, so that the juvenile would be 16 and one half before the juvenile could begin using a temporary license. Or, the date of eligibility could be considered to be age 15 and one half, so that a six month suspension would delay the juvenile's use of a temp until the age 16.
- Make the determination whether suspensions are to be concurrent or consecutive discretionary with the court in all cases throughout the statutes. This would apply to juveniles, as well.
- Make the revocation for a 4th suspension for operating after suspension or operating after revocation discretionary, rather than mandatory. This was the provision deleted from the budget bill by Joint Finance.
- Reintroduce the legislation included in 2005 AB 51, which would eliminate the requirement that courts, law enforcement and DOT take away driver's licenses under certain circumstances.
- Introduce legislation allowing for automatic reinstatement of a driver's license after suspension and payment for reinstatement. DOT may have some language drafted for this proposal.

A second package could be the modification of the mandatory suspension for drug violations to make suspension discretionary with the court instead. This would be accompanied by a joint resolution from the legislature, agreeing to opt out of the federal

Beil
#1

Gary, Aaron

From: Robert Andersen [RJA@legalaction.org]
Sent: Thursday, October 04, 2007 3:52 PM
To: Gary, Aaron; Mcginnis, Cindy
Cc: Warren, Mitchell - DOT
Subject: RE: Driver license drafts

Definitely, we want # 2 below -- the language that was taken out of the governor's budget. I have forwarded the question on consecutive/concurrent suspensions to Dave Pifer, although Nitch may have a comment on that too.

>>> "Mcginnis, Cindy" <Cindy.Mcginnis@legis.wisconsin.gov> 10/04/07
>>> 01:55PM >>>
Aaron-

Thanks for the feedback. I'll forward these to Bob and Mitch. Number 2 makes sense to me based on what we're trying to accomplish. We may have just overlooked it because of the focus on out of state drivers.

I'll have Bob respond directly to your inquiries.

Cindy

Bob and Mitch

Please review Aaron's questions below and answer him directly. Tamara would be ok with his question #2. I'm not quite sure about the proof of financial responsibility issue though. Does this same provision apply to residents of Wisconsin? Or would non-residents now be treated differently?

Cindy

From: Gary, Aaron
Sent: Thursday, October 04, 2007 12:54 PM
To: Mcginnis, Cindy
Subject: RE: Driver license drafts

Hi Cindy,

I'm basically done with the last draft of the 3-bill set you sent over and am ready to put it into editing. However, I have two questions and would be happy to send them directly to Bob but thought I would check with you first.

1. On the second bullet of the instructions for bill #1 related to concurrent or consecutive suspension periods, I'm not exactly sure what statutory text this is referring to. I can only find two provisions in the statutes that are specifically relevant to this issue. Absent some specific mandate, I'm not sure why a judge doesn't have discretion already; I suspect I am overlooking the most relevant current statutes. All I can find specifically on the subject in the stats are ss. 343.30 (1q) (h) and 343.305 (10) (g), requiring concurrent sentences related to certain OWIs and refusals. I have drafted amendments to these provisions that look like this:

Section 2. 343.30 (1q) (h) of the statutes is amended to read:

343.30 (1q) (h) The court or department shall provide that the period of suspension or revocation imposed under this subsection shall be reduced by any period of suspension or revocation previously served under s. 343.305 if the suspension or revocation under s. 343.305 and the conviction for violation of s. 346.63 (1) or (2m) or a local ordinance in conformity therewith arise out of the same incident or occurrence. The court or department shall order that the period of suspension or revocation imposed under this subsection run concurrently with any period of time remaining on a suspension or revocation imposed under s. 343.305 arising out of the same incident or occurrence. The court or department may order that the period of suspension or revocation imposed under this subsection run concurrently with any period of time remaining on any other suspension or revocation regardless of whether it arises out of the same incident or occurrence. The court may modify an occupational license authorized under s. 343.305 (8) (d) in accordance with this subsection.

Is this consistent with the intent or am I overlooking the most relevant existing statutes?

2. There is a portion of this session's governor's budget bill that was requested by DOT but was pulled by joint finance and that might be a natural fit in this bill. The analysis for those provisions is as follows:

Various provisions of current law control the issuance of an operator's license, or the reinstatement of an operating privilege, after suspension or revocation. This bill eliminates, as a condition of issuing an operator's license to a person moving to this state whose operating privilege was previously suspended or revoked in another state, the following requirements: that the person's operating privilege has been reinstated by another state if the person is eligible for reinstatement in the other state; that the period of suspension or revocation that would be required under the laws of this state had the offense been committed in this state has expired; and that the person submit proof of financial responsibility to DOT. This bill also eliminates the requirement that a nonresident whose operating privilege is revoked in this state obtain a valid operator's license issued by his or her resident state as a condition of reinstatement by DOT of the nonresident's operating privilege. This bill eliminates further any requirement that nonresidents provide proof of financial responsibility with respect to reinstatement of an operating privilege or registration suspended in this state as a result of failure to demonstrate financial responsibility after a motor vehicle accident or judgement arising from an accident.

Are you interested in adding this to your bill?

Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

Gary, Aaron

From: McGinnis, Cindy
Sent: Thursday, October 04, 2007 1:56 PM
To: Gary, Aaron
Cc: Robert Andersen; Warren, Mitchell - DOT
Subject: RE: Driver license drafts

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10/04/2007

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608.264.6948 (fax)
aaron.gary@legis.state.wi.us

Gary, Aaron

From: Duerst, Christina
Sent: Tuesday, September 25, 2007 4:52 PM
To: Gary, Aaron
Subject: FW: Message for Aaron Gary
Attachments: Drug Law Memo.doc; drug suspension Resolution.doc

From: Robert Andersen [mailto:RJA@legalaction.org]
Sent: Tuesday, September 25, 2007 4:50 PM
To: LRB.Legal
Subject: Message for Aaron Gary

Attached is a copy of a resolution that I did a couple of years ago and a copy of a memo from DOT on this requirement. Please contact me if you have any questions.

CORRESPONDENCE MEMORANDUM

DT1175 97

Wisconsin Department of Transportation

Date:

September 26, 2007

July 31, 2003

← auto date

To:

Sen. Alberta Darling

cc:

Robert Anderson, Legal Action of Wisconsin
Randy Romanski, Executive Assistant DOT

From:

John J. Sobotik, Assistant General Counsel

Subject:

Driver License Suspension on Drug Convictions – Federal Requirements

Bob Anderson of Legal Action of Wisconsin asked me to summarize for you the federal requirements that led Wisconsin to adopt s. 961.50, Stats., and to discuss whether Wisconsin can meet those federal requirements in some other fashion. Section 961.50, Stats., requires judges to suspend the driver licenses of individuals convicted of any drug offense under Ch. 961, Stats.

23 U.S.C. s. 159 and the regulations promulgated at 23 CFR part 192, require states to do one of two things as a prerequisite to receiving certain federal funds:

Either (1) passes a law that takes driving privileges from drug offenders (whether the offense had anything to do with driving or not in EXACTLY the manner the federal government demands;

OR (2) Both the Governor and both houses of the legislature resolve not to have a law suspending driver licenses exactly the way the federal government wants.

The full text of the law is attached. I think the technical requirements for a conforming law are set forth pretty clearly in the CFR:

(c) A State meets the requirements of this section if:

(1) The State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception:

(i) The revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of

(A) Any violation of the Controlled Substances Act, or

(B) Any drug offense, and

(ii) A delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual otherwise would have been eligible to have a driver's license issued or reinstated if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted... 23 CFR s. 192.4(c)(1)

Wisconsin's current law, s. 961.50, Stats., complies with federal requirements because it takes operating privileges from any drug offender upon conviction, and requires the 6 month suspension be imposed AFTER any suspension or revocation in effect at the time of the conviction. Wisconsin has NOT adopted a "compelling circumstance" exception from this suspension provision. Regardless of the circumstances, current law requires state judges to revoke driving privileges on each an every criminal drug conviction.

"Drug offense" under the federal law means only criminal offenses. Therefore, Wisconsin is not required to and does not impose such suspensions upon conviction for local ordinance forfeiture violations.

The alternative method of meeting federal requirements is also laid out specifically in the statute and CFR:

(c) A State meets the requirements of this section if: ...

(2) The Governor of the State:

(i) Submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the State's legislature which begins after November 5, 1990, a written certification stating that he or she is opposed to the enactment or enforcement in the State of a law described in paragraph (c)(1) of this section relating to the revocation, suspension, issuance, or reinstatement of driver's licenses to convicted drug offenders; and

(ii) Submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in paragraph (c)(1) of this section. 23 CFR 192.4(c)(2).

For your information, I am attaching the last list I have, for FY 2000, detailing which states have adopted and which states have rejected drug laws meeting the 23 CFR s. 159 requirements. I will attempt to get a more current list from NHTSA or FHWA.

Finally, I am frequently asked about sanctions for non-compliance. The FHWA website indicates a number of states have forfeited federal highway dollars as a result of noncompliance. A search for "23 USC 159 compliance" at the FHWA search page, <http://www.fhwa.dot.gov/search.html>, yielded a surprising number of notices of sanctions. I attach one issued to Indiana as an example.

From the U.S. Code Online via GPO Access
[wais.access.gpo.gov]
[Laws in effect as of January 2, 2001]
[Document not affected by Public Laws enacted between
January 2, 2001 and January 28, 2002]
[CITE: 23USC159]

TITLE 23--HIGHWAYS

CHAPTER 1--FEDERAL-AID HIGHWAYS

SUBCHAPTER I--GENERAL PROVISIONS

Sec. 159. Revocation or suspension of drivers' licenses of
individuals convicted of drug offenses

(a) Withholding of Apportionments for Noncompliance.--

(1) Beginning in fiscal year 1994.--For each fiscal year the Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of section 104(b) on the first day of each fiscal year which begins after the second calendar year following the effective date of this section if the State does not meet the requirements of paragraph (3) on such date.

(2) Beginning in fiscal year 1996.--The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of section 104(b) on the first day of each fiscal year which begins after the fourth calendar year following the effective date of this section if the State does not meet the requirements of paragraph (3) on the first day of such fiscal year.

(3) Requirements.--A State meets the requirements of this paragraph if--

(A) the State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception--

(i) the revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of--

(I) any violation of the Controlled Substances Act,
or

(II) any drug offense; and

(ii) a delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual applies for the issuance or reinstatement of a driver's license if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted; or

(B) the Governor of the State--

(i) submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the State's legislature which begins after the effective date of this section a written certification stating that the Governor is opposed to the enactment or enforcement in the State of a law described in subparagraph (A), relating to the revocation, suspension, issuance, or reinstatement of drivers' licenses to convicted drug offenders; and

(ii) submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in clause (i).

(b) Period of Availability; Effect of Compliance and Noncompliance.--

(1) Period of availability of withheld funds.--

(A) Funds withheld on or before september 30, 1995.--Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 1995, shall remain available for apportionment to such State as follows:

(i) If such funds would have been apportioned under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

(ii) If such funds would have been apportioned under section 104(b)(5)(B) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(iii) If such funds would have been apportioned under paragraph (1), (3), or (5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of section 104(b) but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(B) Funds withheld after september 30, 1995.--No funds withheld under this section from apportionment to any State after September 30, 1995, shall be available for apportionment to such State.

(2) Apportionment of withheld funds after compliance.--If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements of subsection (a)(3), apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

(3) Period of availability of subsequently apportioned funds.--

Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

(A) Funds which would have been originally apportioned under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are apportioned under paragraph (2).

(B) Funds which would have been originally apportioned under paragraph (1), (3), or (5)(B) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of section 104(b) shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century), shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

(4) Effect of noncompliance.--If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century), such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

(c) Definitions.--For purposes of this section--

(1) Driver's license.--The term "driver's license" means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

(2) Drug offense.--The term "drug offense" means any criminal offense which proscribes--

(A) the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act; or

(B) the operation of a motor vehicle under the influence of such a substance.

(3) Convicted.--The term "convicted" includes adjudicated under juvenile proceedings.

(Added Pub. L. 102-143, title III, Sec. 333(a), Oct. 28, 1991, 105 Stat. 944; amended Pub. L. 102-388, title III, Sec. 327(a), Oct. 6, 1992, 106 Stat. 1547; Pub. L. 105-178, title I, Sec. 1103(l)(3)(E), June 9, 1998, 112 Stat. 126.)

References in Text

The date of enactment of the Transportation Equity Act for the 21st Century, referred to in subsecs. (a)(1), (2) and (b)(1)(A), (3), (4), is

the date of enactment of Pub. L. 105-178, which was approved June 9, 1998.

The effective date of this section, referred to in subsec. (a)(1), (2), (3)(B)(i), is Nov. 5, 1990. See section 333(e) of Pub. L. 102-143, set out as a note below.

The Controlled Substances Act, referred to in subsecs. (a)(3)(A)(i)(I) and (c)(2)(A), is title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (Sec. 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

Amendments

1998--Subsec. (a)(1), (2). Pub. L. 105-178, Sec. 1103(l)(3)(E)(i), substituted `` (5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of" for `` (5) of" before ``section 104(b)".

Subsec. (b)(1)(A)(i). Pub. L. 105-178, Sec. 1103(l)(3)(E)(ii)(I), substituted ``section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)" for ``section 104(b)(5)(A)".

Subsec. (b)(1)(A)(ii). Pub. L. 105-178, Sec. 1103(l)(3)(E)(ii)(II), substituted ``section 104(b)(5)(B) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)" for ``section 104(b)(5)(B)".

Subsec. (b)(1)(A)(iii). Pub. L. 105-178, Sec. 1103(l)(3)(E)(i), substituted `` (5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of" for `` (5) of" before ``section 104(b)".

Subsec. (b)(3). Pub. L. 105-178, Sec. 1103(l)(3)(E)(ii)(IV), substituted ``section 104(b)(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)" for ``section 104(b)(5)" in concluding provisions.

Subsec. (b)(3)(A). Pub. L. 105-178, Sec. 1103(l)(3)(E)(ii)(I), substituted ``section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)" for ``section 104(b)(5)(A)".

Subsec. (b)(3)(B). Pub. L. 105-178, Sec. 1103(l)(3)(E)(ii)(III), substituted `` (5)(B) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)" for `` (5)(B)".

Subsec. (b)(4). Pub. L. 105-178, Sec. 1103(l)(3)(E)(ii)(IV), substituted ``section 104(b)(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)" for ``section 104(b)(5)".

1992--Pub. L. 102-388 amended section generally, substituting ``Beginning in fiscal year 1994" for ``After second calendar year" as subsec. (a)(1) heading, ``paragraphs (1), (3), and (5)" for ``paragraphs (1), (2), (5), and (6)" in subsec. (a)(1) and (2), ``Beginning in fiscal year 1996" for ``After fourth calendar year" as subsec. (a)(2) heading, ``paragraph (1), (3), or (5)" for ``paragraph (1), (2), or (6)" in subsec. (b)(1)(A)(iii), and ``paragraph (1), (3), or (5)(B)" for ``paragraph (1), (2), (5)(B), or (6)" in subsec. (b)(3)(B).

Effective Date of 1992 Amendment

Section 327(b) of Pub. L. 102-388 provided that: "The amendments made by subsection (a) of this section [amending this section] shall take effect November 5, 1990."

Effective Date

Section 333(e) of Pub. L. 102-143 provided that: "The amendments made by subsection (a) of this section [enacting this section] shall take effect November 5, 1990."

Study on State Compliance With Requirements for Revocation and Suspension of Drivers' Licenses

Pub. L. 102-240, title I, Sec. 1094, Dec. 18, 1991, 105 Stat. 2025, provided that:

"(a) Study.--The Secretary shall conduct a study of State efforts to comply with the provisions of section 333 of the Department of Transportation and Related Agencies Appropriations Acts, 1991 and 1992 [section 333 of Pub. L. 102-143 (1992 Act) enacted this section and provisions set out as a note above and repealed section 333 of Pub. L. 101-516 (1991 Act) which amended section 104 of this title and enacted provisions set out as a note thereunder], relating to revocation and suspension of drivers' licenses.

"(b) Report.--Not later than December 31, 1992, the Secretary shall transmit to Congress a report on the results of the study conducted under this section."

[Code of Federal Regulations]
[Title 23, Volume 1]
[Revised as of April 1, 2003]
From the U.S. Government Printing Office via GPO Access
[CITE: 23CFR192]

[Page 24-27]

TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 192--DRUG OFFENDER'S DRIVER'S LICENSE SUSPENSION

Sec.

- 192.1 Scope.
- 192.2 Purpose.
- 192.3 Definitions.
- 192.4 Adoption of drug offender's driver's license suspension.
- 192.5 Certification requirements.
- 192.6 Period of availability of withheld funds.
- 192.7 Apportionment of withheld funds after compliance.
- 192.8 Period of availability of subsequently apportioned funds.
- 192.9 Effect of noncompliance.
- 192.10 Procedures affecting States in noncompliance.

Authority: 23 U.S.C. 159 and 315.

Source: 57 FR 35999, Aug. 12, 1992, unless otherwise noted.
Redesignated at 60 FR 50100, Sept. 28, 1995.

Sec. 192.1 Scope.

This part prescribes the requirements necessary to implement 23 U.S.C. Sec. 159, which encourages States to enact and enforce drug offender's driver's license suspensions.

Sec. 192.2 Purpose.

The purpose of this part is to specify the steps that States must take in order to avoid the withholding of Federal-aid highway funds for noncompliance with 23 U.S.C. 159.

Sec. 192.3 Definitions.

As used in this part:

- (a) Convicted includes adjudicated under juvenile proceedings.
- (b) Driver's license means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.
- (c) Drug offense means:
 - (1) The possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act, or
 - (2) The operation of a motor vehicle under the influence of such a

substance.

(d) Substance the possession of which is prohibited under the Controlled Substances Act or substance means a controlled or counterfeit chemical, as those terms are defined in subsections 102 (6) and (7) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802 (6) and (7) and listed in 21 CFR 1308.11-.15.

[57 FR 35999, Aug. 12, 1992; 58 FR 62415, Nov. 26, 1993; 59 FR 39256, Aug. 2, 1994]

Sec. 192.4 Adoption of drug offender's driver's license suspension.

(a) The Secretary shall withhold five percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3), and 104(b)(5) of title 23 of the United States Code on the first day of fiscal years 1994 and 1995 if the States does not meet the requirements of this section on that date.

(b) The Secretary shall withhold ten percent of the amount required to be

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apportioned to any State under each of sections 104(b)(1), 104(b)(3), and 104(b)(5) of title 23 of the United States Code on the first day of fiscal year 1996 and any subsequent fiscal year if the State does not meet the requirements of this section on that date.

(c) A State meets the requirements of this section if:

(1) The State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception:

(i) The revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of

(A) Any violation of the Controlled Substances Act, or

(B) Any drug offense, and

(ii) A delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual otherwise would have been eligible to have a driver's license issued or reinstated if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted, or

(2) The Governor of the State:

(i) Submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the State's legislature which begins after November 5, 1990, a written certification stating that he or she is opposed to the enactment or enforcement in the State of a law described in paragraph (c)(1) of this section relating to the revocation, suspension, issuance, or reinstatement of driver's licenses to convicted drug offenders; and

(ii) Submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in paragraph (c)(1) of this section.

(d) A State that makes exceptions for compelling circumstances must do so in accordance with a State law, regulation, binding policy directive or Statewide published guidelines establishing the conditions

for making such exceptions and in exceptional circumstances specific to the offender.

Sec. 192.5 Certification requirements.

(a) Each State shall certify to the Secretary of Transportation by April 1, 1993 and by January 1 of each subsequent year that it meets the requirements of 23 U.S.C. 159 and this regulation.

(b) If the State believes it meets the requirements of 23 U.S.C. 159 and this regulation on the basis that it has enacted and is enforcing a law that suspends or revokes the driver's license of drug offenders, the certification shall contain:

(1) A statement by the Governor of the State that the State has enacted and is enforcing a Drug Offender's Driver's License Suspension law that conforms to 23 U.S.C. 159(a)(3)(A). The certifying statement may be worded as follows: I, (Name of Governor), Governor of the (State or Commonwealth) of -----, do hereby certify that the (State or Commonwealth) of -----, has enacted is enforcing a Drug Offender's Driver's License Suspension law that conforms to section 23 U.S. C. 159(a)(3)(A).

(2) Until a State has been determined to be in compliance with the requirements of 23 U.S.C. 159 and this regulation, the certification shall include also:

(i) A copy of the State law, regulation, or binding policy directive implementing or interpreting such law or regulation relating to the suspension, revocation, issuance or reinstatement or driver's licenses of drug offenders, and

(ii) A statement describing the steps the State is taking to enforce its law with regard to within State convictions, out-of-State convictions, Federal convictions and juvenile adjudications. The statement shall demonstrate that, upon receiving notification that a State driver has been convicted of a within State, out-of-State or Federal conviction or juvenile adjudication, the State is revoking, suspending or delaying the issuance of that drug offender's driver's license; and that, when the State convicts an individual of a drug offense, it is notifying the appropriate State office or, if the offender is a non-resident driver, the appropriate office in the driver's home State. If the State is not yet making

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these notifications, the State may satisfy this element by submitting a plan describing the steps it is taking to establish notification procedures.

(c) If the State believes it meets the requirements of 23 U.S.C. 159(a)(3)(B) on the basis that it opposes a law that requires the suspension, revocation or delay in issuance or reinstatement of the driver's license of drug offenders that conforms to 23 U.S.C. 159(a)(3)(A), the certification shall contain:

(1) A statement by the Governor of the State that he or she is opposed to the enactment or enforcement of a law that conforms to 23 U.S.C. 159(a)(3)(A) and that the State legislature has adopted a resolution expressing its opposition to such a law. The certifying statement may be worded as follows: I, (Name of Governor), Governor of the (State or Commonwealth of -----, do hereby certify that I am opposed to the enactment or enforcement of a law that conforms to 23

U.S.C. 159(a)(3)(A) and that the legislature of the (State or Commonwealth) of -----, has adopted a resolution expressing its opposition to such a law.

(2) Until a State has been determined to be in compliance with the requirements of 23 U.S.C. 159(a)(3)(B) and this regulation, the certification shall include a copy of the resolution.

(d) The Governor each year shall submit the original and three copies of the certification to the local FHWA Division Administrator. The FHWA Division Administrator shall retain the original and forward one copy each to the FHWA Regional Administrator, FHWA Chief Counsel, and the Director of the Office of Highway Safety.

(e) Any changes to the original certification or supplemental information necessitated by the review of the certifications as they are forwarded, State legislative changes or changes in State enforcement activity (including failure to make progress in a plan previously submitted) shall be submitted in the same manner as the original.

[57 FR 35999, Aug. 12, 1992. Redesignated and amended at 60 FR 50100, Sept. 28, 1995]

Sec. 192.6 Period of availability of withheld funds.

(a) Funds withheld under Sec. 1212.4 from apportionment to any State on or before September 30, 1995, will remain available for apportionment as follows:

(1) If the funds would have been apportioned under 23 U.S.C. 104(b)(5)(A) but for this section, the funds will remain available until the end of the fiscal year for which the funds are authorized to be appropriated.

(2) If the funds would have been apportioned under 23 U.S.C. 104(b)(5)(B) but for this section, the funds will remain available until the end of the second fiscal year following the fiscal year for which the funds are authorized to be appropriated.

(3) If the funds would have been apportioned under 23 U.S.C. 104(b)(1) or 104(b)(3) but for this section, the funds will remain available until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

(b) Funds withheld under Sec. 1212.4 from apportionment to any State after September 30, 1995 will not be available for apportionment to the State.

Sec. 192.7 Apportionment of withheld funds after compliance.

Funds withheld under Sec. 1212.4 from apportionment, which remain available for apportionment under Sec. 1212.6(a), will be made available to any State that conforms to the requirements of Sec. 1212.4 before the last day of the period of availability as defined in Sec. 1212.6(a).

[57 FR 35999, Aug. 12, 1992, as amended at 59 FR 39256, Aug. 2, 1994]

Sec. 192.8 Period of availability of subsequently apportioned funds.

(a) Funds apportioned pursuant to Sec. 1212.7 will remain available for expenditure as follows:

(1) Funds originally apportioned under 23 U.S.C. 104(b)(5)(A) will remain available until the end of the fiscal year succeeding the fiscal

year in which the funds are apportioned.

(2) Funds originally apportioned under 23 U.S.C. 104(b)(1), 104(b)(2), 104(b)(5)(B), or 104(b)(6) will remain available until the end of the third fiscal year succeeding the fiscal year in which the funds are apportioned.

(b) Sums apportioned to a State pursuant to Sec. 1212.7 and not obligated at the end of the periods defined in Sec. 1212.8(a), shall lapse or, in the case of

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funds apportioned under 23 U.S.C. 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with 23 U.S.C. 118(b).

Sec. 192.9 Effect of noncompliance.

If a State has not met the requirements of 23 U.S.C. 159(a)(3) at the end of the period for which funds withheld under Sec. 1212.4 are available for apportionment to a State under Sec. 1212.6, then such funds shall lapse or, in the case of funds withheld from apportionment under 23 U.S.C. 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with 23 U.S.C. 118(b).

Sec. 192.10 Procedures affecting States in noncompliance.

(a) Each fiscal year, each State determined to be in noncompliance with 23 U.S.C. 159, based on FHWA's preliminary review of its statutes, will be advised of the funds expected to be withheld under Sec. 1212.4 from apportionment, as part of the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than ninety days prior to final apportionment.

(b) If FHWA determines that the State is not in compliance with 23 U.S.C. 159 based on the agencies' preliminary review, the State may, within 30 days of its receipt of the advance notice of apportionments, submit documentation showing why it is in compliance. Documentation shall be submitted to the Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590.

(c) Each fiscal year, each State determined not to be in compliance with 23 U.S.C. 159(a)(3), based on FHWA's final determination, will receive notice of the funds being withheld under Sec. 1212.4 from apportionment, as part of the certification of apportionments required under 23 U.S.C. 104(e), which normally occurs on October 1 of each fiscal year.

[57 FR 35999, Aug. 12, 1992. Redesignated and amended at 60 FR 50100, Sept. 28, 1995]

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23 U.S.C. SECTION 159

*FY 2000 Certifications

This chart reflects the dates by which each Governor certifies compliance that the State has either enacted and is enforcing a Drug Offender's Driver's License Suspension law or, continues to oppose the enactment and enforcement of a law that conforms to Section 23 U.S.C. 159 (a) (3) (A).

SECTION 159: FY 2000 CERTIFICATIONS

STATES	RESOLUTION	LEGISLATION
ALABAMA	-----	11/23/99
ALASKA	1/31/2000	-----
ARIZONA	1/20/2000	-----
ARKANSAS	-----	1/4/2000
CALIFORNIA	3/15/2000	-----
COLORADO	2/14/2000	-----
CONNECTICUT	12/13/99	-----
DELAWARE	-----	2/2000
DISTRICT OF COLUMBIA	-----	2/9/2000
FLORIDA	-----	12/29/99
GEORGIA	-----	2/1/2000
HAWAII	2/1/2000	-----
IDAHO	12/14/99	-----
ILLINOIS	12/15/99	-----
INDIANA	-----	12/22/99
IOWA	-----	10/22/99
KANSAS	11/17/99	-----
KENTUCKY	1/12/2000	-----
LOUISIANA	12/16/99	-----
MAINE	2/10/2000	-----
MARYLAND	12/7/99	-----
MASSACHUSETTS	-----	12/23/99
MICHIGAN	3/2/2000	-----
MINNESOTA	3/9/2000	-----

STATES	RESOLUTION	LEGISLATION
MISSISSIPPI	-----	12/29/99
MISSOURI	1/28/2000	-----
MONTANA	1/31/2000	-----
NEBRASKA	11/9/99	-----
NEVADA	12/23/99	-----
NEW HAMPSHIRE	2/15/2000	-----
NEW JERSEY	-----	4/4/2000
NEW MEXICO	6/9/2000	-----
NEW YORK	-----	6/7/2000
NORTH CAROLINA	3/3/2000	-----
NORTH DAKOTA	11/12/99	-----
OHIO	-----	12/27/99
OKLAHOMA	-----	3/1/2000
OREGON	-----10/1/99	-----
PENNSYLVANIA	-----	1/21/2000
PUERTO RICO	-----	2/4/2000
RHODE ISLAND	3/1/2000	-----
SOUTH CAROLINA	-----	12/14/99
SOUTH DAKOTA	1/4/2000	-----
TENNESSEE	3/13/2000	-----
TEXAS	-----	2/14/2000
UTAH	1/27/2000	-----
VERMONT	4/6/2000	-----
VIRGINIA	-----	9/30/99
WASHINGTON	12/20/99	-----
WEST VIRGINIA	1/24/2000	-----
WISCONSIN	-----	10/20/99
WYOMING	12/15/99	-----
Manner of Compliance	32	20

STATES	RESOLUTION	LEGISLATION
States in Compliance	52 as of 6/12/2000	

To prevent fund transfer on October 1, 2000 (FY 2001), States should submit their certifications by January 1, 2000.

As of 6-12-2000, all the States' certifications have been received.
 C:\TEMP\FY2000S159.wpd

NOTICE
APPORTIONMENT OF FUNDS WITHHELD FROM
INDIANA UNDER THE PROVISIONS OF
23 U.S.C. 159
N 4510.316
July 15, 1994

1. PURPOSE

- a. To transmit the certificate of apportionment for Indiana of funds authorized for FY 1994 which were withheld pursuant to the provisions of 23 U.S.C. 159.
- b. To allocate FY 1994 obligation authority to support the apportioned funds.

1. BACKGROUND. Indiana was found in noncompliance with the requirements relating to revocation or suspension of drivers' licenses of individuals convicted of drug offenses pursuant to the provisions of 23 U.S.C. 159. Five percent of Indiana's Interstate Maintenance, National Highway System, Surface Transportation Program, and Apportionment Adjustment funds were withheld from apportionment by Federal Highway Administration (FHA) Notices N 4510.295, N 4510.297, N 4510.299, and N 4510.303, respectively. A proportional amount of FY 1994 obligation authority was withheld by FHA Notice N 4520.127. On May 27, 1994, the State of Indiana submitted to FHA evidence of compliance. In accordance with 23 U.S.C. 159, the withheld funds are being apportioned to Indiana effective immediately.

2. AVAILABILITY

- a. Funds withheld pursuant to 23 U.S.C. 159, which are subsequently apportioned, are available for expenditure when apportioned and remain available for expenditure pursuant to the availability provisions of 23 U.S.C. 159.
 - b. The funds resulting from this apportionment are subject to lapse if not obligated for projects by September 30, 1997.
 - c. The apportioned funds are subject to obligation controls in force at the time of obligation.
1. OBLIGATION LIMITATION. The 91.1 percent of FY 1994 obligation authority distributed to support obligation of these funds is shown on the attachment.
 2. ACTION. The Division Administrator for the State of Indiana should ensure that copies of this Notice are furnished to the State highway agency.

/s/
Rodney E. Slater
Federal Highway Administrator

Attachment

CERTIFICATE OF APPORTIONMENT FROM THE SUMS OF \$2,914,000,000 AUTHORIZED TO BE APPROPRIATED FOR THE INTERSTATE MAINTENANCE PROGRAM AND \$3,599,000,000 AUTHORIZED TO BE APPROPRIATED FOR THE NATIONAL HIGHWAY SYSTEM AND \$4,096,000,000 AUTHORIZED TO BE APPROPRIATED FOR THE SURFACE TRANSPORTATION PROGRAM AND

\$790,789,588 AUTHORIZED TO BE APPROPRIATED FOR APPORTIONMENT ADJUSTMENTS FOR
THE FISCAL YEAR ENDING SEPTEMBER 30, 1994

TO--

The Secretary of the Treasury of the United States and the State Highway Departments:

Pursuant to section 9503 of the Internal Revenue Code of 1986, the Intermodal Surface Transportation Efficiency Act of 1991, title 23, United States Code, and the delegation of authority from the Secretary of Transportation to the Federal Highway Administrator in section 1.48, title 49, Code of Federal Regulations, I certify--

First, that under the provisions of section 159 of title 23, United States Code, relating to the revocation or suspension of drivers' licenses of individuals convicted of drug offenses, I did, on October 1 and October 27, 1993, withhold from the State of Indiana, five (5) percentum of the amounts required to be apportioned to such State for Interstate Maintenance, National Highway System, the Surface Transportation Program, and Hold Harmless for the fiscal year 1994, pending the enactment of a complying law relating to revocation or suspension of drivers' licenses of individuals convicted of drug offenses.

Second, that the State of Indiana, effective March 18, 1993, enacted a complying law and therefore, the withheld apportionments are required to be made pursuant to the provisions of section 159 of title 23, United States Code.

Third, that the sums which are hereby apportioned and made available to Indiana effective immediately, are as follows:

U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
APPORTIONMENT OF FUNDS
WITHHELD FROM INDIANA
PURSUANT TO THE PROVISIONS OF
23 U.S.C. 159

FUNDS	AMOUNT APPORTIONED PER THIS NOTICE
INTERSTATE MAINTENANCE	\$3,151,181.00
NATIONAL HIGHWAY SYSTEM	\$3,641,212.00
SURFACE TRANSPORTATION PROGRAM	\$5,085,248.00
HOLD HARMLESS	\$33,836.00
TOTAL	\$11,911,477.00
FY 1994 OBLIGATION LIMITATION	\$10,851,355.00
APPROVED EFFECTIVE July 15, 1994	

/s/

Rodney E. Slater
Federal Highway Administrator

McGinnis, Cindy

From: Warren, Mitchell - DOT
Sent: Friday, August 17, 2007 9:15 AM
To: 'Robert Andersen'; Warren, Mitchell - DOT; David Pifer; Rep.Grigsby
Subject: RE: Driver's license legislation

Attachments: Comments on 23 USC 159.doc



Comments on 23
USC 159.doc (14...

I finally received confirmation from the FHWA on Wednesday of this week that the opt-out to the federal drug law is available, it has not lapsed, nor was it restricted to opting-out at the time of implementation.

I don't have an answer for the second question yet, although I've since found the published rule guidance and I believe it is clear that we do not have to make suspensions effective "after application". Here is the language from the final rule publication in 1992:

If the drug offender does not have a driver's license or if the offender's driver's license is suspended at the time the individual is convicted, Section 159(a)(3)(A)(ii) requires that the State law must provide for a delay in the issuance or reinstatement of the individual's driver's license for at least six months after the individual applies for issuance or reinstatement of his or her driving privileges. The agencies indicated, in the NPRM, that the statute seems to provide that the six month period would not begin to run until the individual initiates the issuance or reinstatement process by submitting an actual application.

The agencies requested comments from the States regarding whether this would impose unnecessary burdens on driver licensing operations, and whether there is a preferable method for marking the beginning of the six month period within the meaning of the statute.

Specifically, the agencies requested comments on whether it would be preferable instead to require that issuance or reinstatement of the individual's driver's license be delayed for at least six months after the individual otherwise would have been eligible to have his or her driver's license issued or restored.

In general, the commenters agreed that a strict reading of the statute would result in the imposition of unnecessary burdens for State driver licensing operations and were in favor of the agencies' approach. Accordingly, today's final rule modifies the regulatory language proposed in the NPRM to make it clear that individuals need not apply for issuance or reinstatement of their driving privileges for the six month period to begin to run.

-----Original Message-----

From: Robert Andersen [mailto:RJA@legalaction.org]
Sent: Tuesday, August 14, 2007 9:52 AM
To: mitchell.warren@dot.state.wi.us; David Pifer; rep.grigsby@legis.state.wi.us
Subject: Driver's license legislation

Cindy has found out that the suspension for failure to pay child support is not a federal requirement, so we are good to go there. Mitch was going to find out about two things below --

* whether the state still has the option of not making the drug suspension mandatory, or whether that option has lapsed.

* whether the state is required to make the drug suspension begin with the date of application or whether it can begin with the date of eligibility.

Mitch, have you been able to get any information on these items? As for our legislation relating to installment payment plans in lieu of automatic suspension and the definition of indigency, we should be able to proceed with that. Was there anything else we were supposed to be doing?

in 10/9

3225/P1

LRB-0011/6

ARG:wlj:pg

stays

RMNR

DOA:.....Kornely, BB0188 - Implementing national Driver License Agreement

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

Lps: Inserts are out of order.

Monday or Tuesday if possible.

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1 AN ACT ...; relating to: driver licensing changes to implement the national Driver
 2 License Agreement, extending the time limit for emergency rule procedures,
 3 providing an exemption from emergency rule procedures, providing an
 4 exemption from rule-making procedures, and requiring the exercise of
 5 rule-making authority.

Analysis by the Legislative Reference Bureau

~~TRANSPORTATION~~

~~DRIVERS AND MOTOR VEHICLES~~

This bill requires the state, through DOT, to enter into the national Driver License Agreement (DLA) that establishes standards for the treatment and exchange of driver licensing and conviction information and other data pertinent to the licensing process. The DLA is developed, facilitated, and promoted by the American Association of Motor Vehicle Administrators. The general purpose statement of the DLA espouses the national interest that all states participate in a reciprocal program of cooperation to promote highway safety, to provide for the fair and impartial treatment of drivers operating within their respective borders, and to

implement minimum identification and security standards for operator's licenses and identification cards. The DLA identifies its core principles as including the following: cooperation among all states to promote compliance with traffic citations in all states; reciprocal recognition of operator's licenses and offenses among states; recognition by all states of one operator's license and one driver control record for each driver; utilization of identity verification processes in issuing operator's licenses and identification cards; consistent treatment of traffic offenses and other offenses among states for purposes of driver control records and penalties; and uniformity among states concerning the exchange of operator's license, identification card, conviction, and other records and data.

The DLA requires all participating states to recognize certain kinds of violations relating mostly to operating motor vehicles and the administrative actions taken in response to those violations, such as suspension or revocation of a person's operating privilege by the appropriate state agency (DLA Code violations). Under the DLA, when a person who is licensed in one state that is a party to the DLA commits a DLA Code violation in another party state, the licensing state takes any administrative action in response to the violation, based on information provided by the state in which the violation occurred. Any administrative action by a party state is recognized by all other party states. The DLA also generally provides that records concerning a licensed driver are maintained only by the licensing state.

This bill requires DOT to promulgate rules that identify the violations and administrative actions under this state's laws that the DLA requires to be recognized as DLA Code violations and that describe the equivalent violations and administrative actions under the laws of other member states that DOT must recognize as DLA Code violations when the offense is not committed in this state.

Current law allows or requires DOT or a court, in a variety of circumstances, to suspend or revoke the operating privilege of any person, whether a resident or nonresident, who commits specified offenses in this state. In addition, in a variety of circumstances, current law allows or requires DOT to suspend or revoke the operating privilege of a resident for committing specified offenses in other jurisdictions and allows or requires DOT or a court to treat convictions in other jurisdictions as prior offenses. DOT may or must suspend or revoke the operating privilege of a nonresident, except with respect to a commercial driver license (CDL), upon receiving notice of a conviction for certain offenses in another jurisdiction.

This bill substantially modifies, to correspond to the state's joinder of the DLA, the procedure for DOT's administrative suspensions and revocations of motor vehicle operating privileges. Under the bill, DOT may generally suspend or revoke the operating privilege only of persons who hold an operator's license issued by DOT or are residents of this state and do not hold an operator's license issued by another jurisdiction (Wisconsin licensees or residents). A nonresident who commits a violation in this state is generally subject to the penalty provided for the violation except that, in lieu of suspension or revocation of the nonresident's operating privilege in this state, notice is provided to the person's state of licensure or residency. However, if the nonresident's state of licensure or residency is not a member of the DLA, or if the offense is not a DLA code violation, DOT may suspend or revoke the

nonresident's operating privilege. The bill also allows certain offenses committed in other jurisdictions that, if committed in this state, would have been violations in this state to be grounds for suspension or revocation by DOT and to be counted as prior violations for purposes of court-ordered suspensions or revocations.

Under the bill, although a nonresident is technically disqualified as a matter of law from operating a commercial motor vehicle (CMV) upon conviction of specified offenses related to a CMV or CDL, the nonresident is not ordered administratively disqualified by DOT, and DOT does not record the disqualification of the nonresident in DOT's driver records unless required to do so by federal law. If DOT receives a record of conviction of a nonresident for an offense not required by federal law to be recorded in DOT's records, DOT must provide notice of the conviction and disqualification as a matter of law to the person's jurisdiction of licensure or residency. The bill also adds certain convictions in other jurisdictions that may result in disqualification. The bill allows certain offenses committed in other jurisdictions that, if committed in this state would have been violations in this state, to be grounds for disqualification.

Under current law, upon conviction of a person for a traffic violation or other specified violation, the court must forward the record of conviction to DOT, and DOT must maintain a file for the person containing a record of any such report of conviction. Also, under current law, DOT must maintain a record of every application for license, permit, or endorsement received by it and of every suspension, revocation, cancellation, and disqualification by DOT. DOT must also maintain a file for each licensee or other person that includes the application for license, permit, or endorsement, a record of reports or abstract of convictions, the status of the person's authorization to operate different vehicle groups, a record of out-of-service orders, and a record of reportable accidents (driver record). The driver record must also include, for a person holding a CDL issued by DOT, a record of certain disqualifications from operating a CMV or revocations, suspensions, or cancellations by another jurisdiction of the person's CDL and a record of certain traffic violations in other jurisdictions, and, for a person holding a CDL issued by any jurisdiction, a record of any violation of a traffic law in any jurisdiction while operating any motor vehicle, not just a CMV.

This bill substantially modifies, to correspond to the state's joinder of the DLA, the procedure for record keeping related to both DOT's administrative and court-ordered suspensions or revocations. Under the bill, in most circumstances, DOT must maintain a driver record only for persons who are Wisconsin licensees or residents. For such persons, DOT must maintain in the driver record any notice received from another jurisdiction of the revocation, suspension, or cancellation of the person's operating privilege in that jurisdiction. Rather than maintain a driver record for nonresidents, DOT must forward the record of conviction (as required under current law) or notice of any administrative action, including suspension or revocation of an operating privilege or disqualification by DOT, or of any test results, out-of-service order, or DOT hearing results related to driving or operating a motor vehicle while under the influence of an intoxicant (OWI), to the nonresident's state of licensure or residency. However, DOT must maintain files other than the driver

record (the sub-driver record) for nonresidents convicted of certain violations in this state that includes the record of conviction, certain suspensions or revocations of operating privileges, and notices of OWI-related refusals, test results, and out-of-service orders.

Upon receiving notice that a Wisconsin licensee or resident has applied for an operator's license or transferred residency to another jurisdiction, DOT must transfer the person's driver record information to the other jurisdiction if the jurisdiction is a member of the DLA or if the jurisdiction accepts responsibility for maintaining the person's driver record. With two exceptions, DOT may not thereafter update the person's driver record unless required by federal law. Under one exception, if DOT transfers the driver record to a jurisdiction that is not a member of the DLA, DOT may continue to update the driver record with respect to any conviction or suspension or revocation of the person's operating privilege for an offense committed in this state that is not recorded by the other jurisdiction on the person's driver record maintained in that jurisdiction. Under the other exception, even if DOT transfers the driver record, DOT may continue to maintain and update the sub-driver record. If the person returns to this state, DOT may use the sub-driver record to update the driver record with respect to any conviction or suspension or revocation of the person's operating privilege for an offense committed in this state that does not appear on the driver record transferred back to DOT from the person's former jurisdiction of licensure or residency. If a person licensed in another jurisdiction applies for an operator's license in this state, DOT must request that the person's driver record be transferred from the other jurisdiction. DOT may not issue an operator's license to any person whose operating privilege is currently suspended, revoked, or canceled by another jurisdiction for an offense specified by DOT as a DLA Code violation unless the suspension, revocation, or cancellation was for failure to comply with a judgment in that jurisdiction and at least five years have elapsed since the suspension, revocation, or cancellation.

Various provisions of current law control the issuance of an operator's license, or the reinstatement of an operating privilege, after suspension or revocation. This bill eliminates, as a condition of issuing an operator's license to a person moving to this state whose operating privilege was previously suspended or revoked in another state, the following requirements: that the person's operating privilege has been reinstated by another state if the person is eligible for reinstatement in the other state; that the period of suspension or revocation that would be required under the laws of this state had the offense been committed in this state has expired; and that the person submit proof of financial responsibility to DOT. This bill also eliminates the requirement that a nonresident whose operating privilege is revoked in this state obtain a valid operator's license issued by his or her resident state as a condition of reinstatement by DOT of the nonresident's operating privilege. This bill eliminates further any requirement that nonresidents provide proof of financial responsibility with respect to reinstatement of an operating privilege or registration suspended in this state as a result of failure to demonstrate financial responsibility after a motor vehicle accident or judgement arising from an accident.

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operating a motor vehicle while under the influence of an intoxicant

The bill also limits, to vehicles titled and registered in this state, a requirement that DOT's vehicle registration records reflect court orders in OWI cases that vehicles be equipped with ignition interlock devices, immobilized, or seized. The bill further limits, to vehicles title by DOT, a provision prohibiting DOT from transferring title to a vehicle if the vehicle owner has been arrested for certain OWI-related offenses.

Under current law, if a court suspends or revokes a person's operating privilege, the court must take possession of the person's operator's license and forward it to DOT. If a person is arrested for OWI, a law enforcement officer requests the person to take a test to determine the amount of alcohol in his or her blood or breath, and the person either refuses to take the test or the test results indicate a prohibited alcohol concentration, the officer must take possession of the person's operator's license and forward it to DOT.

Under this bill, a court that suspends or revokes a person's operating privilege may take possession of a person's operator's license but is not required to do so. If a court does take possession of a person's operator's license, the court must destroy the license. Upon reinstatement of the person's operating privilege, instead of returning the license, DOT must issue a new license. Also, a law enforcement officer who arrests a person for OWI may not take possession of a person's operator's license. The bill also allows a person who is otherwise eligible to obtain an occupational license to do so without surrendering his or her revoked operator's license.

Under current law, DOT is required to keep certain records and information confidential, including signatures submitted to DOT, records of conviction and suspensions or revocations related to underage drinking offenses, social security numbers, certain driving records and identification card records, and photographs and fingerprints taken of operator's license applicants. In most cases, there are specified exceptions allowing the information or records to be disclosed only to specified persons, usually governmental entities such as courts, district attorneys, and law enforcement agencies. This bill creates an exception allowing DOT to disclose certain records and information to any driver licensing agency of another jurisdiction. The bill also creates an exception allowing DOT to disclose signatures submitted to DOT to certain specified governmental entities such as courts, district attorneys, and law enforcement agencies. The bill also specifies that any photograph that DOT provides to a law enforcement agency as allowed under current law may be in print or electronic form.

Because this bill proposes to revoke a person's operating privilege upon conviction for an offense, DOT, as required by law, will prepare a report to be printed as an appendix to this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 23.33 (13) (e) of the statutes is amended to read:

2 23.33 (13) (e) *Alcohol, controlled substances or controlled substance analogs;*
3 *assessment.* In addition to any other penalty or order, a person who violates sub. (4c)
4 (a) or (b) or (4p) (e) or who violates s. 940.09 or 940.25 if the violation involves the
5 operation of an all-terrain vehicle, shall be ordered by the court to submit to and
6 comply with an assessment by an approved public treatment facility for an
7 examination of the person's use of alcohol, controlled substances or controlled
8 substance analogs. The assessment order shall comply with s. 343.30 (1q) (c) 1. a-
9 to-e. Intentional failure to comply with an assessment ordered under this paragraph
10 constitutes contempt of court, punishable under ch. 785.

11 **SECTION 2.** 118.163 (2) (a) of the statutes is amended to read:

12 118.163 (2) (a) Suspension of the person's operating privilege for not less than
13 30 days nor more than one year. The court shall immediately may take possession
14 of any suspended license and forward it. If the court takes possession of a license,
15 it shall destroy the license. The court shall forward to the department of
16 transportation ~~together with~~ a notice stating the reason for and the duration of the
17 suspension.

18 **SECTION 3.** 118.163 (2m) (a) of the statutes is amended to read:

19 118.163 (2m) (a) A county, city, village or town may enact an ordinance
20 permitting a court to suspend the operating privilege of a person who is at least 16
21 years of age but less than 18 years of age and is a dropout. The ordinance shall
22 provide that the court may suspend the person's operating privilege until the person
23 reaches the age of 18. The court shall immediately may take possession of any
24 suspended license and forward it. If the court takes possession of a license, it shall

1 destroy the license. The court shall forward to the department of transportation
2 together with a notice stating the reason for and the duration of the suspension.

3 **SECTION 4.** 125.07 (4) (cm) of the statutes is amended to read:

4 125.07 (4) (cm) When a court revokes or suspends a person's operating privilege
5 under par. (bs) or (c), the department of transportation may not disclose information
6 concerning or relating to the revocation or suspension to any person other than a
7 court, district attorney, county corporation counsel, city, village or town attorney, law
8 enforcement agency, driver licensing agency of another jurisdiction, or the person
9 whose operating privilege is revoked or suspended. A person entitled to receive
10 information under this paragraph may not disclose the information to any other
11 person or agency.

12 **SECTION 5.** 125.085 (3) (bp) of the statutes is amended to read:

13 125.085 (3) (bp) When a court suspends a person's operating privilege under
14 par. (bd), the department of transportation may not disclose information concerning
15 or relating to the suspension to any person other than a court, district attorney,
16 county corporation counsel, city, village or town attorney, law enforcement agency,
17 driver licensing agency of another jurisdiction, or the person whose operating
18 privilege is suspended. A person entitled to receive information under this
19 paragraph may not disclose the information to any other person or agency.

20 **SECTION 6.** 342.12 (4) (a) and (b) of the statutes are amended to read:

21 342.12 (4) (a) The district attorney shall notify the department when he or she
22 files a criminal complaint against a person who has been arrested for violating s.
23 346.63 (1) or (2), 940.09 (1) or 940.25 and who has 2 or more prior convictions,
24 suspensions or revocations, as counted under s. 343.307 (1). Except as provided
25 under par. (c), if the department has previously issued a valid certificate of title for

1 ~~the motor vehicle owned by the person and involved in the violation, the department~~
2 ~~may not issue a certificate of title transferring ownership of the motor this vehicle~~
3 ~~owned by the person and involved in the violation upon receipt of a notice under this~~
4 ~~subsection until the court assigned to hear the criminal complaint issues an order~~
5 ~~permitting the department to issue a certificate of title.~~

6 ~~(b) Except as provided under par. (c), if the department has previously issued~~
7 ~~a valid certificate of title for the motor vehicle owned by the person and involved in~~
8 ~~the violation, the department may not issue a certificate of title transferring~~
9 ~~ownership of the motor this vehicle owned by a person and involved in the violation~~
10 ~~upon receipt of a notice of intent to revoke the person's operating privilege under s.~~
11 ~~343.305 (9) (a), if the person has 3 or more prior convictions, suspensions or~~
12 ~~revocations, as counted under s. 343.307 (1), until the court assigned to the hearing~~
13 ~~under s. 343.305 (9) issues an order permitting the department to issue a certificate~~
14 ~~of title.~~

15 **SECTION 7.** 343.01 (2) (bc) of the statutes is created to read:

16 343.01 (2) (bc) "Home jurisdiction" means another jurisdiction that has most
17 recently issued an operator's license to a person or, if the person has not been issued
18 an operator's license by another jurisdiction, another jurisdiction where the person
19 resides.

20 **SECTION 8.** 343.01 (2) (bm) of the statutes is created to read:

21 343.01 (2) (bm) "Member jurisdiction" means another jurisdiction that has
22 entered into the driver license agreement, as described in s. 343.02 (3) (a).

23 **SECTION 9.** 343.02 (3) of the statutes is created to read:

24 343.02 (3) (a) To promote the efficient administration and enforcement of the
25 provisions of this chapter, this state, through the department, shall join the

1 agreement facilitated by the American Association of Motor Vehicle Administrators
2 that, as of the effective date of this paragraph [revisor inserts date], is known as
3 the "Driver License Agreement" that establishes standards among participating
4 jurisdictions for the treatment and exchange of driver licensing and conviction
5 information and other data pertinent to the licensing process.

6 (b) The department shall promulgate rules as the secretary considers
7 necessary to effectuate the purposes of the driver license agreement and shall
8 promulgate rules, timed to become effective with the effective date of the state's
9 joinder in the driver license agreement, that identify all violations of, and
10 administrative actions under, the laws of this state and describe by type or category
11 all equivalent violations of, and administrative actions under, the laws of other
12 jurisdictions that, under the driver license agreement, are required to be recognized
13 as violations or authorized administrative actions among all jurisdictions that are
14 parties to the driver license agreement.

15 (c) The department shall provide for publication of notice of the state's joinder
16 in the driver license agreement, including the effective date of such joinder, by notice
17 published by the revisor of statutes in the Wisconsin Administrative Register under
18 s. 35.93 (4).

19 **SECTION 10.** 343.027 of the statutes, as affected by 2005 Wisconsin Acts 25 and
20 59, is repealed and recreated to read:

21 **343.027 Confidentiality of signatures.** Any signature collected under this
22 chapter may be maintained by the department and shall be kept confidential, except
23 that the department shall release a signature or a facsimile of a signature to the
24 department of revenue for the purposes of administering state taxes and collecting
25 debt, to the person to whom the signature relates, to a court, district attorney, county

1 corporation counsel, city, village, or town attorney, law enforcement agency, or to the
2 driver licensing agency of another jurisdiction.

3 **SECTION 11.** 343.03 (5) (a) of the statutes is amended to read:

4 343.03 (5) (a) Before issuing or renewing any license under this chapter, the
5 department shall obtain driver record information from the national driver registry
6 and commercial driver license information system to determine whether the
7 applicant holds a commercial driver license, or a license that is revoked, suspended
8 or canceled, or is otherwise disqualified. If the applicant is currently licensed in
9 another state jurisdiction, the department shall obtain information on the
10 applicant's license status with the state jurisdiction of licensure before issuing a
11 license, including requesting transfer to the department of the applicant's driver
12 record information from the other jurisdiction if that jurisdiction is a member
13 jurisdiction.

14 **SECTION 12.** 343.05 (1) (a) of the statutes is amended to read:

15 343.05 (1) (a) Except as provided in this subsection, no person may at any time
16 have more than one operator's license. This prohibition includes, without limitation,
17 having licenses from more than one state, having licenses under more than one name
18 or birthdate, ~~having an occupational license without having surrendered the revoked~~
19 ~~or suspended license document,~~ and having more than one license issued for the
20 operation of different types or classes of vehicles. This paragraph does not apply to
21 any person who has only operator's licenses issued by this state and by a country,
22 province, or subdivision that is a party to an agreement under s. 343.16 (1) (d).

23 **SECTION 13.** 343.05 (5) (b) 1. of the statutes is amended to read:

24 343.05 (5) (b) 1. Except as provided in subd. 2. and sub. (6), any person who
25 violates sub. (3) (a) may be required to forfeit not more than \$200 for the first offense,

1 may be fined not more than \$300 and imprisoned for not more than 30 days for the
2 2nd offense occurring within 3 years, and may be fined not more than \$500 and
3 imprisoned for not more than 6 months for the 3rd or subsequent offense occurring
4 within 3 years. A violation of a local ordinance in conformity with this section or a
5 violation of a law of a federally recognized American Indian tribe or band in this
6 state in conformity with this section, or the law of another jurisdiction for an offense
7 therein which, if committed in this state, would have been a violation under this
8 section, shall count as a previous offense.

9 **SECTION 14.** 343.06 (1) (bm) of the statutes is created to read:

10 343.06 (1) (bm) To any person whose operating privilege is currently
11 suspended, revoked, or canceled by another jurisdiction for an offense or combination
12 of offenses identified in the rules under s. 343.02 (3) (b), except if the operating
13 privilege was suspended, revoked, or canceled by another jurisdiction for failure to
14 comply with a judgment in that other jurisdiction and at least 5 years have elapsed
15 since the operating privilege was suspended, revoked, or canceled for failure to
16 comply.

17 **SECTION 15.** 343.06 (2) of the statutes is amended to read:

18 343.06 (2) The department shall not issue a commercial driver license,
19 including a renewal or reinstated license, to any person during any period of
20 disqualification under s. 343.315 or 49 CFR 383.51 or the law of another jurisdiction
21 in substantial conformity therewith, as the result of one or more disqualifying
22 offenses committed on or after July 1, 1987, or to any person whose operating
23 privilege is revoked, suspended, or canceled. Any With respect to any person who is
24 known to the department to be subject to disqualification as described in s. 343.44

1 (1) (d), the department shall be disqualified by the department as provided order the
2 person disqualified or provide notice as specified in s. 343.315.

3 **SECTION 16.** 343.085 (4) of the statutes is amended to read:

4 343.085 (4) The secretary may require that a person be continued on
5 probationary status beyond the period of first issuance if such person appears by the
6 records of the department to have repeatedly violated any of the state traffic laws or
7 any local ordinance in conformity therewith or any law of a federally recognized
8 American Indian tribe or band in this state in conformity with any of the state traffic
9 laws or any law of another jurisdiction for an offense therein which, if committed in
10 this state, would have been a violation of this state's traffic laws. A person may not
11 be continued on probationary status due to a suspension under s. 343.30 (6).

12 **SECTION 17.** 343.10 (2) (a) 3. of the statutes is repealed.

13 **SECTION 18.** 343.14 (2j) of the statutes, as affected by 2007 Wisconsin Act
14 (this act), section XXX, is amended to read:

15 343.14 (2j) Except as provided in sub. (2g) (b) and as otherwise required to
16 administer and enforce this chapter, the department of transportation may not
17 disclose a social security number obtained from an applicant for a license under sub.
18 (2) (bm) to any person except to the department of children and families for the sole
19 purpose of administering s. 49.22 or, to the department of revenue for the purposes
20 of administering state taxes and collecting debt, or to the driver licensing agency of
21 another jurisdiction.

****NOTE: This is reconciled s. 343.14 (2j). This SECTION has been affected by drafts with the following LRB numbers: LRB-0003, LRB-0011, and LRB-1261. "XXX" in the bill section heading indicates a cross-reference that must be provided in the compiled budget bill to the bill section in LRB-1261 that also treats s. 343.14 (2j).

22 **SECTION 19.** 343.16 (5) (a) of the statutes is amended to read:

1 343.16 (5) (a) The secretary may require any applicant for a license or any
2 licensed operator to submit to a special examination by such persons or agencies as
3 the secretary may direct to determine incompetency, physical or mental disability,
4 disease, or any other condition that might prevent such applicant or licensed person
5 from exercising reasonable and ordinary control over a motor vehicle. If the
6 department requires the applicant to submit to an examination, the applicant shall
7 pay for the examination. If the department receives an application for a renewal or
8 duplicate license after voluntary surrender under s. 343.265 or receives a report from
9 a physician, advanced practice nurse prescriber certified under s. 441.16 (2), or
10 optometrist under s. 146.82 (3), or if the department has a report of 2 or more arrests
11 within a one-year period for any combination of violations of s. 346.63 (1) or (5) or
12 a local ordinance in conformity with s. 346.63 (1) or (5) or a law of a federally
13 recognized American Indian tribe or band in this state in conformity with s. 346.63
14 (1) or (5), or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or (6) or 940.25, or s. 940.09
15 where the offense involved the use of a vehicle, or the law of another jurisdiction for
16 an offense therein which, if committed in this state, would have been a violation of
17 any of these provisions, the department shall determine, by interview or otherwise,
18 whether the operator should submit to an examination under this section. The
19 examination may consist of an assessment. If the examination indicates that
20 education or treatment for a disability, disease or condition concerning the use of
21 alcohol, a controlled substance or a controlled substance analog is appropriate, the
22 department may order a driver safety plan in accordance with s. 343.30 (1q). If there
23 is noncompliance with assessment or the driver safety plan, the department shall
24 revoke the person's operating privilege in the manner specified in s. 343.30 (1q) (d).

25 **SECTION 20.** 343.20 (1) (e) 1. of the statutes is amended to read:

1 343.20 (1) (e) 1. The person is moving to this state, surrenders his or her valid
2 commercial driver license issued by another state jurisdiction, and makes
3 application for a commercial driver license in this state.

4 **SECTION 21.** 343.23 (2) (a) (intro.) of the statutes, as affected by 2007 Wisconsin
5 Act ... (this act), is amended to read:

6 343.23 (2) (a) (intro.) The department shall maintain a file for each licensee or
7 other person identified in par. (am) 1. c. containing the information specified in par.
8 (am) 1. c. and for each person who is a licensee under this chapter or is a resident to
9 whom another jurisdiction has not issued an operator's license containing the
10 application for license, permit or endorsement, a record of reports or abstract of
11 convictions, any notice received from another jurisdiction of the revocation,
12 suspension, or cancellation of the person's operating privilege in that other
13 jurisdiction. any demerit points assessed under authority of s. 343.32 (2), the
14 information in all data fields printed on any license issued to the person, any notice
15 received from the federal transportation security administration concerning the
16 person's eligibility for an "H" endorsement specified in s. 343.17 (3) (d) 1m., the status
17 of the person's authorization to operate different vehicle groups, a record of any
18 out-of-service orders issued under s. 343.305 (7) (b) or (9) (am), a record of the date
19 on which any background investigation specified in s. 343.12 (6) (a) or (d) was
20 completed, a record of the date on which any verification specified in s. 343.165 (1)
21 and (3) was completed, all documents required to be maintained under s. 343.165 (2)
22 (a), and a record of any reportable accident in which the person has been involved,
23 including specification of any type of license and endorsements issued under this
24 chapter under which the person was operating at the time of the accident and an
25 indication whether or not the accident occurred in the course of any of the following:

****NOTE: This is reconciled s. 343.23 (2) (a) (intro.). This SECTION has been affected by drafts with the following LRB numbers: LRB-0003 and LRB-0011.

1 **SECTION 22.** 343.23 (2) (b) of the statutes, as affected by 2007 Wisconsin Act
2 (this act), is amended to read:
3 343.23 (2) (b) The information specified in pars. (a) and (am) must be filed by
4 the department so that the complete operator's record is available for the use of the
5 secretary in determining whether operating privileges of such person shall be
6 suspended, revoked, canceled, or withheld, or the person disqualified, in the interest
7 of public safety. The secretary may also consider the information specified in sub.
8 (2m) for purposes of this paragraph, and, except as provided in sub. (3) (a), any
9 information maintained under sub. (2m) that is described in this paragraph shall be
10 maintained for the periods specified in this paragraph. The record of suspensions,
11 revocations, and convictions that would be counted under s. 343.307 (2) shall be
12 maintained permanently, except that the department shall purge the record of a first
13 violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b) after
14 10 years, if the person who committed the violation had a blood alcohol concentration
15 of 0.08 or more but less than 0.1 at the time of the violation, if the person does not
16 have a commercial driver license, if the violation was not committed by a person
17 operating a commercial motor vehicle, and if the person has no other suspension,
18 revocation, or conviction that would be counted under s. 343.307 during that 10-year
19 period. The record of convictions for disqualifying offenses under s. 343.315 (2) (h)
20 shall be maintained for at least 10 years. The record of convictions for disqualifying
21 offenses under s. 343.315 (2) (f) and (j), and all records specified in par. (am), shall
22 be maintained for at least 3 years. The record of convictions for disqualifying offenses
23 under s. 343.315 (2) (a) to (e) shall be maintained permanently, except that, subject

1 ~~to s. 343.23 (3m), 5 years after a licensee transfers residency to another state such~~
2 ~~record may be transferred to another state of licensure of the licensee if that state~~
3 ~~accepts responsibility for maintaining a permanent record of convictions for~~
4 ~~disqualifying offenses. Such reports and records may be cumulative beyond the~~
5 ~~period for which a license is granted, but the secretary, in exercising the power of~~
6 ~~suspension granted under s. 343.32 (2) may consider only those reports and records~~
7 ~~entered during the 4-year period immediately preceding the exercise of such power~~
8 ~~of suspension. The department shall maintain the digital images of documents~~
9 ~~specified in s. 343.165 (2) (a) for at least 10 years.~~

****NOTE: This is reconciled s. 343.23 (2) (b). This SECTION has been affected by drafts with the following LRB numbers: LRB-0003 and LRB-0011.

10 **SECTION 23.** 343.23 (2m) of the statutes is created to read:

11 343.23 (2m) (a) Subject to sub. (3m) (b), the department shall maintain a file
12 other than the operator's record file specified in sub. (2) (a), for each nonresident who
13 is convicted of a violation, or who otherwise commits an offense, in this state that
14 shall include all of the following:

15 1. A record of reports or abstract of convictions resulting from any offense
16 specified in s. 343.305 (10) (em) or 343.307.

17 2. A record of any suspension or revocation by the department of the person's
18 operating privilege under par. (b) or as provided under s. 344.08 (1m), 344.14 (1r),
19 or 344.25 (7).

20 3. A record of any administrative suspension, notice of refusal, notice of intent
21 to revoke, issuance of an out-of-service order, or report of test results under s.
22 343.305 (7) or (9).

1 (b) The department may use the file under par. (a), and the file specified in sub.
2 (2) (a) if updated as provided in sub. (3m) (b), to suspend or revoke the operating
3 privilege of, or to disqualify, a nonresident if any of the following apply:

4 1. The person is licensed by or resides in another jurisdiction that is not a
5 member jurisdiction.

6 2. The offense for which the suspension, revocation, or disqualification occurs
7 was committed in this state and is not an offense identified in the rules under s.
8 343.02 (3) (b).

9 (c) Nothing in this subsection requires the department to maintain a record of
10 any conviction other than a conviction for an offense specified in s. 343.305 (10) (em)
11 or 343.307 if, at the time of the conviction, the person was licensed in or resided in
12 another jurisdiction.

13 **SECTION 24.** 343.23 (3m) of the statutes is created to read:

14 343.23 (3m) (a) Subject to s. 343.03 (7), upon receiving notice that a person for
15 whom the department maintains a file under sub. (2) (a) has applied for or been
16 issued an operator's license in another jurisdiction or has transferred residency to
17 another jurisdiction, the department shall transfer to the other jurisdiction all file
18 information specified in sub. (2) (a) and (am) within 30 days of receiving such notice
19 if the other jurisdiction is a member jurisdiction or if the other jurisdiction accepts
20 responsibility for maintaining the person's operator's record. Subject to par. (b),
21 upon such transfer, the department shall not update the file described in sub. (2) (a)
22 with any information described in sub. (2) (a) and (am) except as provided under sub.
23 (2) (am) 1. c. and except as required under federal law.

24 (b) If the department transfers the operator's record file information to another
25 jurisdiction as provided in par. (a), and that other jurisdiction is not a member

1 jurisdiction, the department may continue to update the file specified in sub. (2) (a)
2 with respect to any conviction or other information described in sub. (2) (a) and (am)
3 related to an offense committed in this state that is not recorded by the other
4 jurisdiction on the person's operator's record.

5 (c) If the department transfers a person's operator's record file information to
6 another jurisdiction as provided in par. (a), the department may continue to
7 maintain and update the file specified in sub. (2m). If a person subsequently applies
8 for or is issued an operator's license under this chapter or transfers residency back
9 to this state, the department may use the file specified in sub. (2m) to update the file
10 specified in sub. (2) (a) with respect to any conviction, suspension, revocation,
11 disqualification, or other information contained in the file specified in sub. (2m)
12 related to an offense committed in this state that does not appear on an operator's
13 record transferred to the department from the person's former jurisdiction of
14 licensure or residency.

15 **SECTION 25.** 343.23 (4) (b) of the statutes is amended to read:

16 343.23 (4) (b) Any record of issuance of an out-of-service order under s. 343.305
17 (7) (b) or (9) (am) upon receipt of a report from the court hearing the action arising
18 out of the same incident or occurrence that the action has been dismissed or the
19 person has been found innocent of the charge of violating s. 346.63 (7) arising out of
20 that incident or occurrence. ~~In the case of a nonresident, the department shall also~~
21 ~~inform the state of licensure of the dismissal or finding of innocence.~~

22 **SECTION 26.** 343.235 (3) (a) of the statutes is amended to read:

23 343.235 (3) (a) A law enforcement agency, a state authority, a district attorney,
24 a driver licensing agency of another jurisdiction, or a federal governmental agency,
25 to perform a legally authorized function.

1 **SECTION 27.** 343.237 (2) of the statutes is amended to read:

2 343.237 (2) Any photograph taken of an applicant under s. 343.14 (3) or 343.50
3 (4), and any fingerprint taken of an applicant under s. 343.12 (6) (b), may be
4 maintained by the department and, except as provided in this section, shall be kept
5 confidential. Except as provided in this section, the department may release a
6 photograph or fingerprint only to the person whose photograph or fingerprint was
7 taken or to the driver licensing agency of another jurisdiction.

8 **SECTION 28.** 343.237 (3) (intro.) of the statutes is amended to read:

9 343.237 (3) (intro.) The department shall provide a Wisconsin law enforcement
10 agency or a federal law enforcement agency with a print or electronic copy of a
11 photograph taken on or after September 1, 1997, of an applicant under s. 343.14 (3)
12 or 343.50 (4), or a printed or electronic copy of a fingerprint taken of an applicant
13 under s. 343.12 (6) (b), if the department receives a written request on the law
14 enforcement agency's letterhead that contains all of the following:


15 **SECTION 29.** 343.24 (3) of the statutes is amended to read:

16 343.24 (3) The department shall not disclose information concerning or related
17 to a violation as defined by s. 343.30 (6) to any person other than a court, district
18 attorney, county corporation counsel, city, village, or town attorney, law enforcement
19 agency, driver licensing agency of another jurisdiction, or the minor who committed
20 the violation or his or her parent or guardian.

21 **SECTION 30.** 343.24 (4) (c) 1. of the statutes is amended to read:

22 343.24 (4) (c) 1. A law enforcement agency, a state authority, a district attorney,
23 a driver licensing agency of another jurisdiction, or a federal governmental agency,
24 to perform a legally authorized function.

25 **SECTION 31.** 343.28 (2) of the statutes is amended to read:



1 343.28 (2) Whenever a person is convicted of any offense for which s. 343.31
2 makes mandatory the revocation by the secretary of such person's operating
3 privilege, the court in which the conviction occurred ~~shall~~ may require the surrender
4 to it of any license then held by such person. If the court requires surrender of a
5 license, the court shall destroy the license. The clerk of the court, or the justice, judge
6 or magistrate if the court has no clerk, shall, as provided in s. 345.48, forward to the
7 department the record of conviction ~~and any surrendered licenses.~~ ~~The record of~~
8 ~~conviction forwarded to the department, which~~ shall state whether the offender was
9 involved in an accident at the time of the offense, whether the offender was operating
10 a commercial motor vehicle at the time of the offense and, if so, whether the offender
11 was transporting hazardous materials requiring placarding or any quantity of a
12 material listed as a select agent or toxin under 42 CFR 73, or was operating a vehicle
13 designed to carry, or actually carrying, 16 or more passengers, including the driver.

14 **SECTION 32.** 343.30 (1g) (b) of the statutes is amended to read:

15 343.30 (1g) (b) A court shall may revoke a person's operating privilege upon the
16 person's conviction for violating s. 343.44 (1) (a), (b) or (d) or a local ordinance in
17 conformity therewith if the person has been convicted of 3 or more prior violations
18 of s. 343.44 (1) (a), (b) or (d); or of similar violations under s. 343.44 (1), 1997 stats.,
19 ~~or a local ordinance in conformity therewith, with s. 343.44 (1) (a), (b), or (d), or the~~
20 law of another jurisdiction prohibiting operating a motor vehicle with a suspended
21 or revoked license or while disqualified or ordered out of service, as those terms or
22 substantially similar terms are used in that other jurisdiction's laws, within the
23 5-year period preceding the violation. The revocation shall be for a period of 6
24 months, unless the court orders a period of revocation of less than 6 months and
25 places its reasons for ordering the lesser period of revocation on the record.

Insert
20-14

1 **SECTION 33.** 343.30 (1q) (b) 4. of the statutes is amended to read:

2 343.30 **(1q)** (b) 4. Except as provided in subd. 4m., if the number of convictions
3 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
4 convictions, suspensions, and revocations counted under s. 343.307 (1), equals 3 or
5 more, the court shall revoke the person's operating privilege for not less than 2 years
6 nor more than 3 years. After the first 90 days of the revocation period or, if the total
7 number of convictions, suspensions, and revocations counted under this subdivision
8 within any 5-year period equals 2 or more, after one year of the revocation period has
9 elapsed, the person is eligible for an occupational license under s. 343.10 if he or she
10 has completed the assessment, if applicable, and is complying with the driver safety
11 plan ordered under par. (c), if applicable.

12 **SECTION 34.** 343.30 (1q) (c) 1. (intro.), a. and c. of the statutes are consolidated,
13 renumbered 343.30 (1q) (c) 1. and amended to read:

14 343.30 **(1q)** (c) 1. Except as provided in subd. 1. a. or b. this subdivision, and
15 except for a first violation of s. 346.63 (1) (b), if the person who committed the
16 violation is a licensee under this chapter or is a resident to whom another jurisdiction
17 has not issued an operator's license and had a blood alcohol concentration of 0.08 or
18 more but less than 0.1 at the time of the violation, the court shall order the person
19 to submit to and comply with an assessment by an approved public treatment facility
20 as defined in s. 51.45 (2) (c) for examination of the person's use of alcohol, controlled
21 substances or controlled substance analogs and development of a driver safety plan
22 for the person. The court shall notify the department of transportation of the
23 assessment order. The court shall notify the person that noncompliance with
24 assessment or the driver safety plan will result in revocation of the person's
25 operating privilege until the person is in compliance. The assessment order shall:

1 a. If the person is a resident, refer the person to an approved public treatment facility
2 in the county in which the person resides. The facility named in the order may
3 provide for assessment of the person in another approved public treatment facility.
4 The order shall provide that if the person is temporarily residing in another state,
5 the facility named in the order may refer the person to an appropriate treatment
6 facility in that state for assessment and development of a driver safety plan for the
7 person satisfying the requirements of that state. e. Require The assessment order
8 shall require a person who is referred to a treatment facility in another state under
9 subd. 1. a. or b. this subdivision to furnish the department written verification of his
10 or her compliance from the agency which administers the assessment and driver
11 safety plan program. The person shall provide initial verification of compliance
12 within 60 days after the date of his or her conviction. The requirement to furnish
13 verification of compliance may be satisfied by receipt by the department of such
14 verification from the agency which administers the assessment and driver safety
15 plan program.

16 **SECTION 35.** 343.30 (1q) (c) 1. b. of the statutes is repealed.

17 **SECTION 36.** 343.30 (2j) (a) of the statutes is renumbered 343.30 (2j) and
18 amended to read:

19 343.30 (2j) A court may revoke a person's operating privilege upon the person's
20 first conviction for violating s. 346.44 or 346.62 (2m) and shall revoke a person's
21 operating privilege upon the person's 2nd or subsequent conviction for violating s.
22 346.44 or 346.62 (2m) if within a 5-year period, the person was previously convicted
23 for violating s. 346.44 or 346.62 (2m) or the law of another jurisdiction for an offense
24 therein which, if committed in this state, would have been cause for revocation under
25 this subsection. The revocation shall be for a period of 6 months. For purposes of

Insert
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1 determining prior convictions for purposes of this ~~paragraph subsection~~, the 5-year
 2 period shall be measured from the dates of the violations that resulted in the
 3 convictions. Each conviction under s. 346.44 or 346.62 (2m) or the applicable law of
 4 another jurisdiction shall be counted, except that convictions under s. 346.44 and
 5 346.62 (2m) or the applicable law of another jurisdiction arising out of the same
 6 incident or occurrence shall be counted as a single conviction.

7 SECTION 37. 343.30 (4) of the statutes is amended to read:

8 343.30 (4) Whenever a court ~~or judge~~ suspends or revokes an operating
 9 privilege under this section, the court ~~or judge~~ shall immediately may take
 10 possession of any suspended or revoked license ~~and~~. If the court takes possession of
 11 a license, it shall destroy the license. The court shall forward it, as provided in s.
 12 345.48, to the department ~~together with~~ the record of conviction and notice of
 13 suspension or revocation. Whenever a court ~~or judge~~ restricts the operating privilege
 14 of a person, the court ~~or judge~~ shall forward notice of the restriction to the
 15 department.

Insert
23-16

16 SECTION 38. 343.30 (5) of the statutes is amended to read:

17 343.30 (5) No court may suspend or revoke an operating privilege except as
 18 authorized by this chapter or ch. 345, 351, or 938 or s. 767.73, 800.09 (1) (c), 800.095
 19 (4) (b) 4., 943.21 (3m), or 961.50. When a court revokes, suspends, or restricts a
 20 juvenile's operating privilege under ch. 938, the department of transportation shall
 21 not disclose information concerning or relating to the revocation, suspension, or
 22 restriction to any person other than a court, district attorney, county corporation
 23 counsel, city, village, or town attorney, law enforcement agency, driver licensing
 24 agency of another jurisdiction, or the minor whose operating privilege is revoked,

1 suspended, or restricted, or his or her parent or guardian. Persons entitled to receive
2 this information shall not disclose the information to other persons or agencies.

3 **SECTION 39.** 343.301 (1) (e) of the statutes is created to read:

4 343.301 (1) (e) The court shall notify the department, in a form and manner
5 prescribed by the department, that an order requiring a motor vehicle to be equipped
6 with an ignition interlock device has been entered. If the motor vehicle is registered
7 in this state under ch. 341 and the department has issued a valid certificate of title
8 for the vehicle under ch. 342, the registration records of the department shall reflect
9 that the order has been entered against the motor vehicle and remains unexecuted.
10 Any law enforcement officer may execute that order based on the information
11 provided by the department. The law enforcement agency shall notify the
12 department when an order has been executed under this paragraph and the
13 department shall amend its vehicle registration records to reflect that notification
14 if the motor vehicle is registered in this state under ch. 341 and the department has
15 issued a valid certificate of title for the vehicle under ch. 342.

16 **SECTION 40.** 343.301 (2) (d) of the statutes is amended to read:

17 343.301 (2) (d) The court shall notify the department, in a form and manner
18 prescribed by the department, that an order to immobilize a motor vehicle has been
19 entered. The If the motor vehicle is registered in this state under ch. 341 and the
20 department has issued a valid certificate of title for the vehicle under ch. 342, the
21 registration records of the department shall reflect that the order has been entered
22 against the motor vehicle and remains unexecuted. Any law enforcement officer may
23 execute that order based on the information provided by the department. The law
24 enforcement agency shall notify the department when an order has been executed
25 under this paragraph and the department shall amend its vehicle registration

1 ~~records to reflect that notification if the motor vehicle is registered in this state under~~
 2 ~~ch. 341 and the department has issued a valid certificate of title for the vehicle under~~
 3 ~~ch. 342.~~

4 SECTION 41. 343.305 (7) (a) of the statutes is amended to read:

5 343.305 (7) (a) If a person submits to chemical testing administered in
 6 accordance with this section and any test results indicate the presence of a detectable
 7 amount of a restricted controlled substance in the person's blood or a prohibited
 8 alcohol concentration, the law enforcement officer shall report the results to the
 9 department and take possession of the person's license and forward it to the
 10 department. The person's operating privilege is administratively suspended for 6
 11 months.

12 SECTION 42. 343.305 (7) (b) of the statutes is amended to read:

13 343.305 (7) (b) If a person who was driving or operating or on duty time with
 14 respect to a commercial motor vehicle submits to chemical testing administered in
 15 accordance with this section and any test results indicate an alcohol concentration
 16 above 0.0, the law enforcement officer may take possession of the person's license and
 17 retain the license for 24 hours. The person may reclaim a seized license in person
 18 or request return of the license by mail. The law enforcement officer shall issue a
 19 citation for violation of s. 346.63 (7) (a) 1., issue citations for such other violations as
 20 may apply and issue an out-of-service order to the person for the 24 hours after the
 21 testing, and report both the out-of-service order and the test results to the
 22 department in the manner prescribed by the department. If the person is a

23 ~~nonresident, the department shall report issuance of the out-of-service order to the~~
 24 ~~driver licensing agency in the person's home jurisdiction.~~

25 SECTION 43. 343.305 (9) (a) (intro.) of the statutes is amended to read:

delete striking plain

delete striking

1 343.305 (9) (a) (intro.) If a person refuses to take a test under sub. (3) (a), the
2 law enforcement officer shall immediately ~~take possession of the person's license and~~
3 prepare a notice of intent to revoke, by court order under sub. (10), the person's
4 operating privilege. If the person was driving or operating a commercial motor
5 vehicle, the officer shall issue an out-of-service order to the person for the 24 hours
6 after the refusal and notify the department in the manner prescribed by the
7 department. The officer shall issue a copy of the notice of intent to revoke the
8 privilege to the person and submit or mail a copy with the person's license to the
9 circuit court for the county in which the arrest under sub. (3) (a) was made or to the
10 municipal court in the municipality in which the arrest was made if the arrest was
11 for a violation of a municipal ordinance under sub. (3) (a) and the municipality has
12 a municipal court. The officer shall also mail a copy of the notice of intent to revoke
13 to the attorney for that municipality or to the district attorney for that county, as
14 appropriate, and to the department. Neither party is entitled to pretrial discovery
15 in any refusal hearing, except that, if the defendant moves within 30 days after the
16 initial appearance in person or by an attorney and shows cause therefor, the court
17 may order that the defendant be allowed to inspect documents, including lists of
18 names and addresses of witnesses, if available, and to test under s. 804.09, under
19 such conditions as the court prescribes, any devices used by the plaintiff to determine
20 whether a violation has been committed. The notice of intent to revoke the person's
21 operating privilege shall contain substantially all of the following information:

22 **SECTION 44.** 343.305 (9) (am) (intro.) of the statutes is amended to read:

23 343.305 (9) (am) (intro.) If a person driving or operating or on duty time with
24 respect to a commercial motor vehicle refuses a test under sub. (3) (am), the law
25 enforcement officer shall immediately ~~take possession of the person's license,~~ issue

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

19 **SECTION 45.** 343.305 (10) (b) 3. of the statutes is amended to read:

20 343.305 (10) (b) 3. Except as provided in subd. 4m., if the number of convictions
21 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
22 convictions, suspensions, and revocations counted under s. 343.307 (2) within a
23 10-year period, equals 2, the court shall revoke the person's operating privilege for
24 2 years. After the first 90 days of the revocation period or, if the total number of
25 convictions, suspensions, and revocations counted under this subdivision within any

1 5-year period equals 2 or more, after one year of the revocation period has elapsed,
2 the person is eligible for an occupational license under s. 343.10 if he or she has
3 completed the assessment, if applicable, and is complying with the driver safety
4 plan, if applicable.

5 **SECTION 46.** 343.305 (10) (b) 4. of the statutes is amended to read:

6 343.305 (10) (b) 4. Except as provided in subd. 4m., if the number of convictions
7 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
8 convictions, suspensions, and revocations counted under s. 343.307 (2), equals 3 or
9 more, the court shall revoke the person's operating privilege for 3 years. After the
10 first 120 days of the revocation period or, if the total number of convictions,
11 suspensions, and revocations counted under this subdivision within any 5-year
12 period equals 2 or more, after one year of the revocation period has elapsed, the
13 person is eligible for an occupational license under s. 343.10 if he or she has
14 completed the assessment, if applicable, and is complying with the driver safety
15 plan, if applicable.

16 **SECTION 47.** 343.305 (10) (c) 1. (intro.), a. and c. of the statutes are consolidated,
17 renumbered 343.305 (10) (c) 1. and amended to read:

18 343.305 (10) (c) 1. Except as provided in subd. 1. a. or b. this subdivision, if the
19 person is a licensee under this chapter or is a resident to whom another jurisdiction
20 has not issued an operator's license, the court shall order the person to submit to and
21 comply with an assessment by an approved public treatment facility as defined in s.
22 51.45 (2) (c) for examination of the person's use of alcohol, controlled substances or
23 controlled substance analogs and development of a driver safety plan for the person.
24 The court shall notify the person and the department of transportation of the
25 assessment order. The court shall also notify the person that noncompliance with

1 assessment or the driver safety plan will result in license suspension until the person
2 is in compliance. The assessment order shall: a. If the person is a resident, refer the
3 person to an approved public treatment facility in the county in which the person
4 resides. The facility named in the order may provide for assessment of the person
5 in another approved public treatment facility. The order shall provide that if the
6 person is temporarily residing in another state, the facility named in the order may
7 refer the person to an appropriate treatment facility in that state for assessment and
8 development of a driver safety plan for the person satisfying the requirements of that
9 state. e. Require The assessment order shall require a person who is referred to a
10 treatment facility in another state under subd. 1. a. or b. this subdivision to furnish
11 the department written verification of his or her compliance from the agency which
12 administers the assessment and driver safety plan program. The person shall
13 provide initial verification of compliance within 60 days after the date of his or her
14 conviction. The requirement to furnish verification of compliance may be satisfied
15 by receipt by the department of such verification from the agency which administers
16 the assessment and driver safety plan program.

17 **SECTION 48.** 343.305 (10) (c) 1. b. of the statutes is repealed.

18 **SECTION 49.** 343.305 (11) of the statutes is amended to read:

19 343.305 **(11)** RULES. The department shall promulgate rules under ch. 227
20 necessary to administer this section. The rules shall include provisions relating to
21 the expeditious exchange of information under this section between the department
22 and law enforcement agencies, circuit courts, municipal courts, attorneys who
23 represent municipalities, and district attorneys, and driver licensing agencies of
24 other jurisdictions. The rules may not affect any provisions relating to court
25 procedure.

Insert
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1 **SECTION 50.** 343.31 (1) (intro.) of the statutes is amended to read:

2 343.31 (1) (intro.) The department shall revoke ~~a person's~~ the operating
3 privilege of a person who is a licensee under this chapter or is a resident to whom
4 another jurisdiction has not issued an operator's license upon receiving a record of
5 conviction showing that the person has been convicted of any of the following offenses
6 under a state law or under a local ordinance which is in conformity therewith or
7 under a law of a federally recognized American Indian tribe or band in this state
8 which is in conformity with state law:

9 **SECTION 51.** 343.31 (1) (hm) of the statutes is repealed.

10 **SECTION 52.** 343.31 (2) of the statutes is amended to read:

11 343.31 (2) The department shall revoke the operating privilege of any resident
12 person who is a licensee under this chapter or is a resident to whom another
13 jurisdiction has not issued an operator's license upon receiving notice of the
14 conviction of such person in another jurisdiction for an offense therein which, if
15 committed in this state, would have been cause for revocation under this section or
16 for revocation under s. 343.30 (1q) or which is identified in the rules under s. 343.02
17 (3) (b) as an offense for which a person is subject to revocation. Such offenses shall
18 include violation of any law of another jurisdiction that prohibits a person from using
19 a motor vehicle while intoxicated or under the influence of a controlled substance or
20 controlled substance analog, or a combination thereof; with an excess or specified
21 range of alcohol concentration; while under the influence of any drug to a degree that
22 renders the person incapable of safely driving; or while having a detectable amount
23 of a restricted controlled substance in his or her blood, as those or substantially
24 similar terms are used in that other jurisdiction's laws. ~~Upon receiving similar~~
25 ~~notice with respect to a nonresident,~~ the department shall revoke the privilege of the

1 nonresident to operate a motor vehicle in this state. Such revocation shall not apply
2 to the operation of a commercial motor vehicle by a nonresident who holds a valid
3 commercial driver license issued by another state. This subsection does not apply
4 if the other jurisdiction in which the offense was committed suspended or revoked
5 the person's operating privilege in that other jurisdiction as a result of the conviction
6 and the period of suspension or revocation in that other jurisdiction has expired or
7 if, at the time of the conviction, the person was licensed in or resided in another
8 jurisdiction.

9 SECTION 53. 343.31 (2m) of the statutes is repealed.

10 SECTION 54. 343.31 (2r) of the statutes is amended to read:

11 343.31 (2r) The department shall suspend ~~a person's~~ the operating privilege
12 of a person who is a licensee under this chapter or is a resident to whom another
13 jurisdiction has not issued an operator's license upon receiving a record of conviction
14 showing that the person has been convicted of perjury or the making of a false
15 affidavit or the making of a false statement or certification to the department under
16 this chapter or any other law relating to the ownership or operation of motor vehicles.

17 SECTION 55. 343.31 (2z) of the statutes is created to read:

18 343.31 (2z) (a) The department shall revoke, in the manner provided in sub.
19 (1), the operating privilege of a nonresident upon receiving a record of the person's
20 conviction of committing in this state any offense specified in sub. (1) if the person
21 is licensed by or resides in another jurisdiction that is not a member jurisdiction or
22 if the offense specified in sub. (1) is not an offense identified in the rules under s.
23 343.02 (3) (b).

24 (b) The department shall suspend, in the manner provided in sub. (2r), the
25 operating privilege of a nonresident upon receiving a record of the person's conviction

1 of committing in this state an offense specified in sub. (2r) if the person is licensed
2 by or resides in another jurisdiction that is not a member jurisdiction or if the offense
3 specified in sub. (2r) is not an offense identified in the rules under s. 343.02 (3) (b).

4 **SECTION 56.** 343.31 (3) (a) of the statutes is amended to read:

5 343.31 (3) (a) Except as otherwise provided in this subsection or sub. (2m), (2s),
6 or (2x), all revocations or suspensions under this section shall be for a period of one
7 year.

8 **SECTION 57.** 343.31 (3) (b) of the statutes is repealed.

9 **SECTION 58.** 343.31 (3) (bg) of the statutes is created to read:

10 343.31 (3) (bg) The period of suspension or revocation under sub. (2) shall be
11 the same as if the person were convicted of the offense in this state.

12 **SECTION 59.** 343.31 (3) (bm) (intro.) of the statutes is amended to read:

13 343.31 (3) (bm) (intro.) For any person who is a licensee under this chapter or
14 is a resident to whom another jurisdiction has not issued an operator's license and
15 who is convicted under a law of a federally recognized American Indian tribe or band
16 in this state in conformity with s. 346.63 (1):

17 **SECTION 60.** 343.31 (3) (c) of the statutes is amended to read:

18 343.31 (3) (c) Any person who is a licensee under this chapter or is a resident
19 to whom another jurisdiction has not issued an operator's license, or who is subject
20 to revocation of the person's operating privilege under sub. (2z) (a), and who is
21 convicted under s. 940.09 of causing the death of another or of an unborn child by the
22 operation or handling of a motor vehicle shall have his or her operating privilege
23 revoked for 5 years. If there was a minor passenger under 16 years of age or an
24 unborn child, as defined in s. 939.75 (1), in the motor vehicle at the time of the

1 violation that gave rise to the conviction under s. 940.09, the revocation period is 10
2 years.

3 **SECTION 61.** 343.31 (3) (d) (intro.) of the statutes is amended to read:

4 343.31 (3) (d) (intro.) Any person who is a licensee under this chapter or is a
5 resident to whom another jurisdiction has not issued an operator's license, or who
6 is subject to revocation of the person's operating privilege under sub. (2z) (a), and who
7 is convicted of knowingly fleeing or attempting to elude a traffic officer under s.
8 346.04 (3) shall have his or her operating privilege revoked as follows:

9 **SECTION 62.** 343.31 (3) (e) of the statutes is amended to read:

10 343.31 (3) (e) Any person who is a licensee under this chapter or is a resident
11 to whom another jurisdiction has not issued an operator's license, or who is subject
12 to revocation of the person's operating privilege under sub. (2z) (a), and who is
13 convicted under s. 346.63 (2) shall have his or her operating privilege revoked for not
14 less than one year nor more than 2 years. If there was a minor passenger under 16
15 years of age in the motor vehicle at the time of the violation that gave rise to the
16 conviction under s. 346.63 (2), the minimum and maximum revocation periods are
17 doubled.

18 **SECTION 63.** 343.31 (3) (f) of the statutes is amended to read:

19 343.31 (3) (f) Any person who is a licensee under this chapter or is a resident
20 to whom another jurisdiction has not issued an operator's license, or who is subject
21 to revocation of the person's operating privilege under sub. (2z) (a), and who is
22 convicted under s. 940.25 shall have his or her operating privilege revoked for 2
23 years. If there was a minor passenger under 16 years of age or an unborn child, as
24 defined in s. 939.75 (1), in the motor vehicle at the time of the violation that gave rise
25 to the conviction under s. 940.25, the revocation period is 4 years.

1 **SECTION 64.** 343.31 (3) (i) of the statutes is amended to read:

2 343.31 (3) (i) If a person who is a licensee under this chapter or is a resident
3 to whom another jurisdiction has not issued an operator's license, or who is subject
4 to revocation of the person's operating privilege under sub. (2z) (a), and who is
5 convicted for a violation of s. 346.67 (1) where the accident involved great bodily
6 harm, the period of revocation is 2 years.

7 **SECTION 65.** 343.31 (3) (j) of the statutes is amended to read:

8 343.31 (3) (j) If a person who is a licensee under this chapter or is a resident
9 to whom another jurisdiction has not issued an operator's license, or who is subject
10 to revocation of the person's operating privilege under sub. (2z) (a), and who is
11 convicted for a violation of s. 346.67 (1) where the accident involved death, the period
12 of revocation is 5 years.

13 **SECTION 66.** 343.315 (2) (f) 7. of the statutes is amended to read:

14 343.315 (2) (f) 7. Operating a commercial motor vehicle when the person does
15 not have in his or her immediate possession the person's commercial driver license
16 document, including any special restrictions cards that, if the commercial driver
17 license is issued under this chapter, are issued under s. 343.10 (7) (d) or 343.17 (4),
18 unless the person produces in court or in the office of the law enforcement officer that
19 issued the citation, by the date that the person must appear in court or pay any fine
20 or forfeiture with respect to the citation, a commercial driver license document
21 issued to the person prior to the date of the citation and valid at the time of the
22 citation.

23 **SECTION 67.** 343.315 (2) (fm) of the statutes is amended to read:

24 343.315 (2) (fm) A person is disqualified for a period of 60 days from operating
25 a commercial motor vehicle if convicted of violating s. 343.14 (5) or 345.17 or the law

1 of another jurisdiction for an offense therein which, if committed in this state, would
2 have been a violation of s. 343.14 (5) or 345.17, if the violation relates to an
3 application for a commercial driver license.

4 **SECTION 68.** 343.315 (2) (h) of the statutes is amended to read:

5 343.315 (2) (h) Except as provided in par. (i), a person is disqualified for a period
6 of 90 days from operating a commercial motor vehicle if convicted of an
7 out-of-service violation, or one year if convicted of 2 out-of-service violations, or 3
8 years if convicted of 3 or more out-of-service violations, arising from separate
9 occurrences committed within a 10-year period while driving or operating a
10 commercial motor vehicle. A disqualification under this paragraph shall be in
11 addition to any penalty imposed under s. 343.44. In this paragraph, "out-of-service
12 violation" means violating s. 343.44 (1) (c) or a law of another jurisdiction for an
13 offense therein which, if committed in this state, would have been a violation of s.
14 343.44 (1) (c), by operating a commercial motor vehicle while the operator or vehicle
15 is ordered out-of-service under the law of this state or another jurisdiction or under
16 federal law.

17 **SECTION 69.** 343.315 (2) (j) (intro.) of the statutes is amended to read:

18 343.315 (2) (j) (intro.) A person is disqualified for a period of 60 days from
19 operating a commercial motor vehicle if convicted of a railroad crossing violation, or
20 120 days if convicted of 2 railroad crossing violations or one year if convicted of 3 or
21 more railroad crossing violations, arising from separate occurrences committed
22 within a 3-year period while driving or operating a commercial motor vehicle. In this
23 paragraph, "railroad crossing violation" means a violation of a federal, state, or local
24 law, rule, or regulation, including the law of another jurisdiction, relating to any of
25 the following offenses at a railroad crossing:

1 **SECTION 70.** 343.315 (3) (a) of the statutes is amended to read:

2 343.315 (3) (a) Notwithstanding s. 343.39, and subject to par. (bm), if a person's
3 license or operating privilege is revoked or suspended as the result of an offense
4 committed after March 31, 1992, which results in disqualification under sub. (2), the
5 department shall immediately disqualify the person from operating a commercial
6 motor vehicle for the period required under sub. (2). The person's authorization to
7 operate a commercial motor vehicle shall not be reinstated upon expiration of the
8 period of revocation or suspension unless the period of disqualification has also
9 expired. During any period of disqualification in which the person's license or
10 operating privilege is not revoked or suspended, the department may issue an
11 operator's license to the person for the operation of vehicles other than commercial
12 motor vehicles.

13 **SECTION 71.** 343.315 (3) (b) of the statutes, as affected by 2007 Wisconsin Act
14 (this act), is amended to read:

15 343.315 (3) (b) If a person's license or operating privilege is not otherwise
16 revoked or suspended as the result of an offense committed after March 31, 1992,
17 which results in disqualification under sub. (2) (a) to (f), (h), (i), or (j), the department
18 shall, subject to par. (bm), immediately disqualify the person from operating a
19 commercial motor vehicle for the period required under sub. (2) (a) to (f), (h), (i), or
20 (j). Upon proper application by the person and payment of the fees specified in s.
21 343.21 (1) (L) and (n), the department may issue a separate license authorizing only
22 the operation of vehicles other than commercial motor vehicles. Upon expiration of
23 the period of disqualification, the person may apply for authorization to operate
24 commercial motor vehicles under s. 343.26.

****NOTE: This is reconciled s. 343.315 (3) (b). This SECTION has been affected by drafts with the following LRB numbers: LRB-0011 and LRB-0973.

1 **SECTION 72.** 343.315 (3) (bm) of the statutes is created to read:

2 343.315 (3) (bm) Upon receiving a record of conviction for any offense causing
3 a person to be disqualified from operating a commercial motor vehicle under sub. (2)
4 or a notice specified in sub. (2) (k), the department shall record the disqualification
5 if required by s. 343.23 (2) (am) and, subject to s. 343.03 (7) (b), do one of the following:

6 1. If the person is a licensee under this chapter or is a resident to whom another
7 jurisdiction has not issued an operator's license, the department shall issue an order
8 disqualifying the person and record the disqualification under s. 343.23 (1). The
9 department may take any other applicable administrative action against the
10 licensee or resident on the disqualification.

11 2. If the person is a nonresident, the department shall provide notice to the
12 person's home jurisdiction as required under s. 343.36 (3). Subject to s. 343.23 (2)
13 (am) 3., if the person is a nonresident, the department may not issue an order
14 disqualifying the person, record the disqualification under s. 343.23 (1), or take any
15 other administrative action against the person on the disqualification. The
16 department may record the disqualification under s. 343.23 (2m).

17 **SECTION 73.** 343.315 (3) (d) of the statutes is amended to read:

18 343.315 (3) (d) ~~Disqualifications~~ Subject to sub. (4), disqualifications shall be
19 effective from the ~~date of conviction of the disqualifying offense~~ the order of
20 disqualification.

21 **SECTION 74.** 343.32 (1) of the statutes is repealed.

22 **SECTION 75.** 343.32 (1m) (a) of the statutes is repealed.

23 **SECTION 76.** 343.32 (1m) (b) (intro.) of the statutes is amended to read:

1 343.32 (1m) (b) (intro.) The secretary shall suspend a person's the operating
2 privilege of a person who is a licensee under this chapter or is a resident to whom
3 another jurisdiction has not issued an operator's license for not less than 6 months
4 nor more than 5 years whenever notice has been received of the conviction of such
5 person under federal law or the law of a federally recognized American Indian tribe
6 or band in this state or the law of another jurisdiction for any offense therein which,
7 if the person had committed the offense in this state and been convicted of the offense
8 under the laws of this state, would have required suspension of such person's
9 operating privilege under s. 961.50. This paragraph does not apply if the other
10 jurisdiction in which the offense was committed suspended or revoked the person's
11 operating privilege in that other jurisdiction as a result of the conviction and the
12 period of suspension or revocation in that other jurisdiction has expired or if, at the
13 time of the conviction, the person was licensed in or resided in another jurisdiction.

14 The person is eligible for an occupational license under s. 343.10 as follows:

15 **SECTION 77.** 343.32 (1s) of the statutes is amended to read:

16 343.32 (1s) The Notwithstanding ss. 125.085 (3) (bd) and 343.30 (6) (bm), the
17 secretary shall suspend the operating privilege of any person who is a licensee under
18 this chapter or is a resident to whom another jurisdiction has not issued an operator's
19 license and who has been convicted under state law or under a local ordinance which
20 is in conformity therewith or under a law of a federally recognized American Indian
21 tribe or band in this state which is in conformity with state law, or the law of another
22 jurisdiction for an offense therein which, if committed in this state, would have been
23 cause for suspension under this subsection, of altering the person's license, loaning
24 the person's license to another, or unlawfully or fraudulently using or permitting an
25 unlawful or fraudulent use of a license. This paragraph does not apply if the other

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1 jurisdiction in which the offense was committed suspended or revoked the person's
2 operating privilege in that other jurisdiction as a result of the conviction and the
3 period of suspension or revocation in that other jurisdiction has expired or if, at the
4 time of the conviction, the person was licensed in or resided in another jurisdiction.

5 **SECTION 78.** 343.32 (1v) of the statutes is created to read:

6 343.32 (1v) The secretary may suspend or revoke the operating privilege of any
7 person who is a licensee under this chapter or is a resident to whom another
8 jurisdiction has not issued an operator's license upon receiving notice of the
9 suspension or revocation in another jurisdiction of the person's operating privilege
10 for an offense therein which, if committed in this state, would have been cause for
11 suspension or revocation under any law of this state or which is identified in the rules
12 under s. 343.02 (3) (b) as an offense for which a person is subject to suspension or
13 revocation, or upon receiving notice of any circumstances occurring in another
14 jurisdiction which, if occurring in this state, would have been cause for
15 administrative suspension under s. 343.305 (7) (a). This subsection does not apply
16 if the period of suspension or revocation in the other jurisdiction has expired or if, at
17 the time of the offense or time that the circumstances occurred, the person was
18 licensed in or resided in another jurisdiction. This subsection does not apply with
19 respect to any suspension or revocation in another jurisdiction for failure to comply
20 with the order of, or appear before, a court of that other jurisdiction.

21 **SECTION 79.** 343.32 (2) (a) of the statutes is amended to read:

22 343.32 (2) (a) The secretary may suspend ~~a person's~~ the operating privilege of
23 a person who is a licensee under this chapter or is a resident to whom another
24 jurisdiction has not issued an operator's license if the person appears by the records
25 of the department to be a habitually reckless or negligent operator of a motor vehicle

1 or to have repeatedly violated any of the state traffic laws, any local ordinance
2 enacted under ch. 349 or any traffic laws enacted by a federally recognized American
3 Indian tribe or band in this state if the tribal traffic laws violated strictly conform
4 to provisions in chs. 341 to 348 or, if the offense occurred on a federal military
5 installation located in this state, any federal law which is in strict conformity with
6 a state traffic law, or any law of another jurisdiction for an offense therein which, if
7 committed in this state, would have been cause for demerit point assessment under
8 this subsection. The secretary may not consider, for purposes of this paragraph, any
9 offense occurring in another jurisdiction if, at the time of any conviction for the
10 offense, the person was licensed in or resided in another jurisdiction. For the purpose
11 of determining when to suspend an operating privilege under this subsection, the
12 secretary may determine and adopt by rule a method of weighing traffic convictions
13 by their seriousness and may, subject to the limitations in this subsection, change
14 such weighted scale as experience or the accident frequency in the state makes
15 necessary or desirable.

16 **SECTION 80.** 343.325 (4) of the statutes is amended to read:

17 343.325 (4) If a person whose suspension, revocation or disqualification was
18 stayed pursuant to sub. (2) is convicted of an offense for which revocation or
19 ~~disqualification~~ is mandatory under s. 343.31 or 343.315 an order of disqualification
20 is required under s. 343.315 (3) (bm) 1., during the pendency of the appeal of the
21 original conviction, the secretary shall forthwith revoke such person's operating
22 privilege or disqualify the person from operating a commercial motor vehicle on
23 account of the latter conviction, notwithstanding the appeal of either or both
24 convictions.

25 **SECTION 81.** 343.34 (1) of the statutes is amended to read:

1 ~~343.34 (1) Whenever the secretary is satisfied that a person has violated a~~
2 ~~restriction on the a license issued under this chapter and that it is in the interests~~
3 ~~of public safety to suspend the license, the secretary shall suspend such license for~~
4 ~~a period not exceeding one year unless the violation is cause for revocation.~~

5 **SECTION 82.** 343.34 (2) of the statutes is amended to read:

6 ~~343.34 (2) When a person who is a licensee under this chapter or is a resident~~
7 ~~to whom another jurisdiction has not issued an operator's license has been convicted~~
8 ~~under s. 343.16 (7) (b).~~

9 **SECTION 83.** 343.345 of the statutes, as affected by 2007 Wisconsin Act (this
10 ~~act), is amended to read:~~

11 ~~**343.345 Restriction, limitation or suspension of operating privilege.**~~

12 ~~The department shall restrict, limit or suspend a person's the operating privilege of~~
13 ~~a person who is a licensee under this chapter or is a resident to whom another~~
14 ~~jurisdiction has not issued an operator's license if the person is delinquent in making~~
15 ~~court-ordered payments of child or family support, maintenance, birth expenses,~~
16 ~~medical expenses or other expenses related to the support of a child or former spouse,~~
17 ~~or who fails to comply, after appropriate notice, with a subpoena or warrant issued~~
18 ~~by the department of children and families or a county child support agency under~~
19 ~~s. 59.53 (5) and related to paternity or child support proceedings, as provided in a~~
20 ~~memorandum of understanding entered into under s. 49.857.~~

~~****NOTE: This is reconciled s. 343.345. This SECTION has been affected by drafts
with the following LRB numbers: LRB-0011 and LRB-1261.~~

21 **SECTION 84.** 343.36 (title) of the statutes is amended to read:

22 ~~**343.36 (title) Department to distribute suspension, revocation and**~~
23 ~~**disqualification lists and nonresidents' records of conviction and notices.**~~