

## 2007 SENATE BILL 184

May 14, 2007 – Introduced by Senators KREITLOW, LASSA, RISSER, LEHMAN and ERPENBACH, cosponsored by Representatives VRUWINK, SHILLING, SUDER, SHERIDAN, BOYLE, POPE-ROBERTS, MOLEPSKE, POCAN, TRAVIS, GUNDERSON, BERCEAU, SINICKI, ALBERS and WOOD. Referred to Committee on Judiciary and Corrections.

1     **AN ACT** *to amend* 343.17 (3) (b); and *to create* 343.177 of the statutes; **relating**  
2           **to:** requiring the Department of Transportation to establish rules allowing  
3           living will and health care power of attorney information to be included on  
4           driver’s licenses, extending the time limit for emergency rule procedures,  
5           providing an exemption from emergency rule procedures, providing an  
6           exemption from rule-making procedures, and granting rule-making authority.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, any person at least 18 years of age and of sound mind may voluntarily execute a declaration to physicians (commonly known as a “living will”) authorizing the withholding or withdrawal of life-sustaining procedures or of feeding tubes when the person is in a terminal condition or is in a persistent vegetative state. Also, under current law, any person at least 18 years of age and of sound mind may voluntarily execute a power of attorney for health care, under which, if the person is found to be incapacitated, the person’s designated agent may make health care decisions on behalf of the person. The Department of Health and Family Services (DHFS) must prepare and provide copies of living will and health care power of attorney forms, in quantities, to health care professionals, hospitals, nursing homes, county clerks, and local bar associations, and individually to private persons.

This bill requires the Department of Transportation (DOT) to establish by rule a procedure that allows any person who has been issued a regular operator’s license

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and who has executed a living will or health care power of attorney to write, in a space provided on the back of the operator's license, the identity of an individual who has custody of the person's living will or designated as the person's agent under a health care power of attorney.

The bill also requires DOT to make available on its Internet Web site the living will and health care power of attorney forms prepared by DHFS.

For further information see the *state* 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.** 343.17 (3) (b) of the statutes is amended to read:

2           343.17 (3) (b) The reverse side of the license shall contain an explanation of any  
3 restriction codes or endorsement abbreviations used on the front of the license, in  
4 sufficient detail to identify the nature of the restrictions or endorsements to a law  
5 enforcement officer of this state or another jurisdiction. Except for a commercial  
6 driver license, a part of the reverse side of each license shall be printed to serve as  
7 a document of gift under s. 157.06 (2) (b) and (c) or a document of refusal to make an  
8 anatomical gift under s. 157.06 (2) (i). A part of the reverse side of each license shall  
9 be printed to allow a licensee to write on the license document information  
10 authorized by rule under s. 343.177 (1).

11           **SECTION 2.** 343.177 of the statutes is created to read:

12           **343.177 Living will and health care power of attorney information. (1)**  
13 The department shall, by rule, establish a procedure that allows any person who has  
14 been issued a regular license, as described in s. 343.03 (3) (a), and who has executed  
15 a declaration to physicians under ch. 154 or a power of attorney for health care under  
16 ch. 155 to write, in a space provided on the back of the license document, the identity  
17 of an individual having custody of the person's declaration to physicians or  
18 designated as the person's agent under a power of attorney for health care or, as

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1 applicable, of both such individuals. The rules shall require the licensee, if the  
2 licensee revokes a declaration to physicians under ch. 154 or a power of attorney for  
3 health care under ch. 155, or changes the individual previously identified on the  
4 license document as having custody of the declaration to physicians or designated as  
5 the licensee's agent under a power of attorney for health care, to promptly cross out  
6 any inaccurate or outdated information written by the licensee on the license  
7 document under authority of this subsection.

8 (2) The department shall make available, at no charge, on a portion of its  
9 Internet Web site related to driver licensing the declaration to physicians form  
10 specified in s. 154.03 (2) (intro.) and the power of attorney for health care form  
11 specified in s. 155.30 (3) (intro.). If these forms are available on the Internet Web site  
12 of the department of health and family services, the department of transportation  
13 may, in lieu of posting the forms on its own Web site, provide a link to the forms on  
14 the Web site of the department of health and family services.

15 **SECTION 3. Nonstatutory provisions.**

16 (1) The department of transportation shall submit in proposed form the rules  
17 required under section 343.177 (1) of the statutes, as created by this act, to the  
18 legislative council staff under section 227.15 (1) of the statutes no later than May 11,  
19 2008.

20 (2) Using the emergency rules procedure under section 227.24 of the statutes,  
21 the department of transportation shall promulgate the rules required under section  
22 343.177 (1) of the statutes, as created by this act, for purposes of implementing this  
23 act, for the period before the effective date of the rules submitted under subsection  
24 (1). The department shall promulgate these emergency rules no later than May 11,  
25 2008. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, these emergency

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1 rules may remain in effect until July 1, 2009, or the date on which permanent rules  
2 take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the  
3 statutes, the department is not required to provide evidence that promulgating a rule  
4 under this subsection as an emergency rule is necessary for the preservation of the  
5 public peace, health, safety, or welfare and is not required to provide a finding of  
6 emergency for a rule promulgated under this subsection.

7 **SECTION 4. Initial applicability.**

8 (1) This act first applies to operator's licenses issued on the effective date of this  
9 subsection.

10 **SECTION 5. Effective dates.** This act takes effect on May 11, 2008, except as  
11 follows:

12 (1) SECTION 3 (1) and (2) of this act takes effect on January 1, 2008, or the day  
13 after publication, whichever is later.

14 (END)