



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 08/30/2006 (By: ARG)



Appendix A ... Part 02 of 02

 The 2005 drafting file for LRB-4307

has been transferred to the drafting file for

2007 LRB-0003

 This cover sheet, the final request sheet, and the final version of the 2005 draft were copied on yellow paper, and returned to the original 2005 drafting file.

 The attached 2005 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

Wanted
by 3/24
PM

Wlj

in 3/6

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

Gen

1 AN ACT ...; relating to: motor vehicle operator's licenses and identification cards
2 issued by the Department of Transportation

Analysis by the Legislative Reference Bureau

On May 11, 2005, the federal REAL ID Act of 2005 (the Act) was signed into law. Beginning three years after the date of enactment, a federal agency may not accept, for any "official purpose," a motor vehicle operator's license or identification card issued by a state to any person unless the state satisfies requirements contained in the Act. Under the Act, an "official purpose" includes accessing federal facilities, boarding federally regulated commercial aircraft, and any other purpose identified by the federal Department of Homeland Security (DHS). State compliance with requirements under the Act must be certified by the state to DHS. This bill incorporates into state law the requirements contained in the Act necessary for federal agencies to recognize for an "official purpose" operator's licenses and identification cards issued by this state.

Under current law, an applicant for an operator's license or identification card issued by the Department of Transportation (DOT) must provide certain information, including the person's full name, residence address, date of birth, sex, physically descriptive information, and social security number or a statement that the person does not have a social security number. DOT must also take a photograph of each applicant for an identification card and, with certain exceptions, of each applicant for an operator's license. In addition, as a result of 2005 Act ... (AB-69), an applicant for an operator's license or identification card must present documentary proof that the person is either a United States citizen or legally present

in the United States. DOT may not issue an operator's license to an applicant who has not provided this documentary proof of citizenship or legal presence, who is not a resident of this state, or who has not provided satisfactory proof of his or her name and date of birth. Each operator's license and identification card issued by DOT must contain, on the front side, the person's full name, date of birth, residence address, a color photograph of the person (unless an exception applies), a physical description of the person (including sex), the license or card number, a facsimile of the person's signature or a space to immediately write the signature, the date of issuance, and the expiration date.

Under current law, DOT may issue a receipt to any applicant for an operator's license, which receipt constitutes a temporary license to operate a motor vehicle while the license application is being processed. This temporary license is not valid for more than 30 days.

Under this bill, DOT may not complete the processing of an application for initial issuance or renewal of an operator's license or identification card received by DOT after May 10, 2008, and no such license or identification card may be issued or renewed, unless the applicant presents or provides, and DOT verifies, all of the following information:

1. An identity document that ~~either includes~~ includes the applicant's photograph or includes both the applicant's full legal name and date of birth.

2. Documentation showing the applicant's date of birth, which may be the identity document in item 1.

3. Proof of the applicant's social security number or verification that the applicant is not eligible for a social security number.

4. Documentation showing the applicant's name and address of principal residence.

5. Valid documentary proof that the individual is a citizen or national of the United States or an alien lawfully admitted for permanent or temporary residence in the United States or has any of other specified forms of legal status or authorization.

DOT must, in processing such an application for an operator's license or identification card, capture a digital image of each document presented or provided, and retain the paper copy of any document provided. These digital images must be retained, in electronic storage and in a transferable format, in the applicant's file or record for at least ten years, and paper copies of documents must be so retained for seven years. DOT must verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented or provided to DOT. DOT may utilize verification procedures with the federal DHS for purposes of verifying legal presence of an applicant and with the federal Social Security Administration for purposes of verifying the social security number of an applicant. DOT must record in the applicant's file or record the date on which verification is completed. DOT may issue a receipt effective as a temporary operator's license for the period during which DOT processes an application.

The bill does not require, however, that DOT follow this procedure for processing an application for initial issuance or renewal of an operator's license or

identification card received by DOT after May 10, 2008, if in connection with a prior application after May 10, 2008, the applicant previously presented or provided, and DOT verified, all of this information and DOT recorded the date on which the verification procedures were completed in DOT's file or record of the applicant. However, DOT must establish an effective procedure to confirm or verify such an applicant's renewal information.

The bill also requires that, for certain applicants who present or provide specified forms of status or authorization of legal presence in the United States, DOT must issue operator's licenses or identification cards displaying, on the back of the license or card, the legend "Noncitizen Temporary License" or "Noncitizen Temporary Identification Card." An operator's license or identification card displaying such a legend may not be renewed unless the applicant presents or provides valid documentary proof showing that the status by which the applicant qualified for the license or identification card has been extended by the federal DHS. *

126 Under current law, as a result of 2005 Act ~~711~~ (AB-69), an operator's license or identification card issued to a noncitizen must expire on the date that the person's legal presence in the United States is no longer authorized unless the documentary proof provided to show authorized legal presence does not state an end date for the person's authorized legal presence.

Under this bill, an operator's license or identification card displaying a "Noncitizen Temporary License" or "Noncitizen Temporary Identification Card" legend must expire on the date that the person's legal presence in the United States is no longer authorized or, if the documentary proof provided to show authorized legal presence does not state an end date for the person's authorized legal presence, one year after the date of license or identification card issuance. The bill also specifies that DOT must cancel an operator's license or identification card upon receiving information from a local, state, or federal government agency that the applicant no longer satisfies the legal presence requirements for issuance of a license or identification card. *

Under current law, most operator's licenses issued by DOT must be renewed every eight years, and identification cards must be renewed every four years. To renew most operator's licenses, DOT must administer an examination of the applicant's eyesight and take the applicant's photograph.

Under this bill, for any license renewal at other than an eight-year interval based upon a license expiration related to the period of the person's authorized legal presence, DOT may determine whether to take the applicant's photograph or to examine the applicant, or both, at the time of the renewal, so long as the applicant's photograph is taken, and the applicant is examined, with a license renewal at least once every eight years and the applicant's license at all times includes a photograph. For any identification card renewal at other than a four-year interval based upon a license expiration related to the period of the person's authorized legal presence, DOT may determine whether to take the applicant's photograph at the time of the renewal, so long as the applicant's photograph is taken with a card renewal at least once every four years and the applicant's card at all times includes a photograph.

The bill specifies that each operator's license or identification card must include the applicant's full legal name, principal residence address, signature, and gender. Every operator's license and identification card must also include a digital color photograph of the applicant, including facial image capture. The bill also specifies that an applicant who does not provide a social security number must provide the basis for his or her ~~ineligibility~~ ^{ineligibility} for a social security number. The bill retains the requirement under current law that the operator's license expiration date appear on the license, which usually will coincide with the date of expiration of a noncitizen's authorized legal presence. However, where the date of expiration of a noncitizen's authorized legal presence is later than the date of expiration of the operator's license, the bill eliminates any requirement created under 2005 Act ~~... (AB-69)~~ ¹²⁶ that the date of expiration of the person's authorized legal presence appear on the license in addition to the date of expiration of the license.

Under current law, each operator's license must be, to the maximum extent practicable, tamper proof. This bill requires that each operator's license and identification card contain physical security features designed to prevent tampering, counterfeiting, or duplication for ~~fraudulent purposes~~ ^{of fraud}, and incorporate a common machine-readable technology, with defined minimum data elements, consistent with any requirement under federal law.

Under current law, DOT may not issue an operator's license to a person previously licensed in another state unless the person surrenders to DOT any valid operator's license issued to the person by another state. This bill prohibits DOT from issuing an identification card to a person previously licensed in another state unless the person surrenders to DOT any valid operator's license issued to the person by another state.

Under current law, DOT must, upon request, provide to the commercial driver license information system and the driver licensing agencies of other states any applicant or driver record information maintained by DOT. This bill specifies that DOT must, upon request, provide to any driver licensing agency of another state, the District of Columbia, any province of Canada, or any U.S. commonwealth, territory, or possession electronic access to any record or file of an operator's license or identification card applicant, including any photograph, signature, or social security number appearing in such a record or file.

The bill also requires that DOT record in each licensee's operating record, and in each identification card holder's record, the information in all data fields printed on the person's license or card. DOT must also record in each person's operating record any demerit points assessed to the person.

The bill requires DOT to implement certain security procedures with regard to the issuance of operator's licenses and identification cards. The bill requires DOT to perform background investigations, using fingerprint analyses by the Federal Bureau of Investigation, on persons hired to fill positions in the Division of Motor Vehicles (DMV). The bill does not require a background investigation on current DMV employees or potential DMV employees who have been previously employed by the state. The background investigations are for the purpose of verifying identity and obtaining criminal histories. In addition, DOT must adopt appropriate security

clearance requirements for all persons authorized to manufacture or produce operator's licenses and identification cards, adopt appropriate procedures and practices to ensure the physical security of locations where, and document materials and papers from which, operator's licenses and identification cards are produced, and establish fraudulent document recognition training programs for employees engaged in the issuance of operator's licenses and identification cards.

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

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

SECTION 1. 110.09 of the statutes is created to read:

110.09 Background investigations; license and identification card security procedures. (1) Notwithstanding ss. 111.321, 111.322, and 111.335, the department of transportation, with the assistance of the department of justice, shall conduct a background investigation of any person who has not been previously employed by the state and who has been selected to fill a position within the division of motor vehicles. The department of transportation shall require the person to be fingerprinted on 2 fingerprint cards each bearing a complete set of the person's fingerprints, or by other technologies approved by law enforcement agencies. The department of justice shall submit the fingerprint cards to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions. The department of transportation shall reimburse the department of justice for its services under this

14

subsection
section

***NOTE: This subsection is taken from 2005 AB-1019, but moved to ch. 110. (Also see 2005 AB-383.) I have added the "notwithstanding" language. This subsection might be considered narrow for purposes of the REAL ID Act, as it applies only to persons not previously employed by the state, and also somewhat broad for purposes of the REAL ID Act, as it applies to all DMV employees, not just those involved in license or ID card issuance. Also, is the last sentence of this subsection necessary given s. 165.82; did you intend this provision to replace application of s. 165.82?

****NOTE: This subsection requires only a one-time criminal history check; any conviction occurring after employment commences would not be revealed (though a conviction for a serious offense would presumably lead to an employee's absence and may become known for that reason). Do you want to require a periodic criminal history check of employees? See, for example, s. 343.12 (6) (d).

1 (2) In addition to conducting the background investigation under sub. (1), the
2 department of transportation shall do all of the following:

3 (a) Adopt appropriate security clearance requirements for all persons
4 authorized by the department to manufacture or produce operator's licenses and
5 identification cards.

6 (b) Adopt appropriate procedures and practices to ensure the physical security
7 of locations where, and document materials and papers from which, operator's
8 licenses and identification cards are produced.

9 (c) Establish fraudulent document recognition training programs for
10 appropriate employees engaged in the issuance of operator's licenses and
11 identification cards.

****NOTE: As for definitions in ch. 340, I believe the definition of "other jurisdiction" or "another jurisdiction" under s. 340.01 (41m) (combined with "this state") adequately covers the term "state" as defined in the REAL ID Act.

****NOTE: If other jurisdictions issue "driving certificates" in addition to driver's licenses as a result of the REAL ID Act, I believe that s. 340.01 (40) (operating privilege) and (41g) (operator's license) would adequately authorize operation under those driving certificates while in Wisconsin.

12 **SECTION 2.** 343.01 (2) (d) of the statutes is amended to read:

13 343.01 (2) (d) "Photograph" means an unretouched image recorded by a camera
14 and reproduced on a photosensitive surface, or a digitized digital image.

History: 1971 c. 164 s. 83; 1971 c. 278; 1977 c. 29 s. 1654 (7) (a); 1977 c. 449; 1979 c. 110 s. 60 (6); 1979 c. 333 s. 5; 1981 c. 390 ss. 186, 252; 1983 a. 189, 223, 227, 270, 480, 538; 1989 a. 75, 105; 1991 a. 39; 1995 a. 113, 446.

15
16 **SECTION 3.** 343.03 (3) (intro.) of the statutes is amended to read:

17 343.03 (3) LICENSE VARIANTS. (intro.) Except for restricted licenses under s.
18 343.08 or temporary licenses under s. 343.10, 343.11 (1) or (3), 343.16 (6) (b), or

1 343.305 (8) (a), each operator's license issued by the department shall be in one of the
 2 following categories with a descriptive legend displayed on the top front side of the
 3 license document:

4 History: 1989 a. 105; 1991 a. 12, 32, 39; 1995 a. 113; 2003 a. 33.

SECTION 4. 343.03 (3m) of the statutes is created to read:

5 **343.03 (3m) NONCITIZEN TEMPORARY LICENSE.** If the issuance of any license
 6 described under sub. (3) requires the license applicant to present any documentary
 7 proof specified in s. 343.14 (2) (es) 4. to 7., the license shall display, on the top of the
 8 reverse side of the license, the legend "Noncitizen Temporary License," in addition
 9 to any legend or label described in sub. (3). The license may not be renewed except
 10 as provided in s. 343.165 (4) (c).

****NOTE: At the REAL ID Act kick-off, the idea was proposed in the main lecture
 of having the "noncitizen" label appear on the back of the license. I have drafted this
 provision accordingly. The REAL ID Act requires that the license "clearly indicate on its
 face" that it is temporary. It is unclear to me whether the back of the license document
 is a "face" of the license sufficient to satisfy the federal requirement. *

****NOTE: I elected to provide for notations on "regular" and other licenses, rather
 than creating a whole new license. See s. 343.03 (3). If a "new" noncitizen license is
 created to be issued in lieu of the "regular" license, ss. 343.03 (3), 343.16 (d) 1., and
 probably s. 343.20 (1) (e) 3. will need to be amended. *

11 **SECTION 5. 343.03 (5) (a)** of the statutes, as affected by 2003 Wisconsin Act 33,
 12 is amended to read:

13 **343.03 (5) (a)** Before issuing or renewing any license under this chapter, the
 14 department shall obtain driver record information from the national driver registry
 15 and commercial driver license information system to determine whether the
 16 applicant holds a commercial driver license, or a license that is revoked, suspended
 17 or canceled, or is otherwise disqualified. If Subject to s. 343.11 (1), if the applicant
 18 is currently licensed in another state, the department shall obtain information on the
 19 applicant's license status with the state of licensure before issuing a license.

History: 1989 a. 105; 1991 a. 12, 32, 39; 1995 a. 113; 2003 a. 33.

SECTION 6

1 SECTION 6. 343.03 (6) (a) of the statutes, as affected by 2003 Wisconsin Act 33,
2 is amended to read:

3 343.03 (6) (a) The Notwithstanding ss. 343.027, 343.14 (2j) (b), and 343.237 (2),
4 the department shall, upon request, provide to the commercial driver license
5 information system and the driver licensing agencies of other states jurisdictions any
6 applicant or driver record information maintained by the department, including
7 providing electronic access to any record or file under s. 343.23 (1) or (2).

History: 1989 a. 105; 1991 a. 12, 32, 39; 1995 a. 113; 2003 a. 33.

****NOTE: I believe this provision clarifies that DOT may provide signatures, photos, and social security numbers included in the operating file provided to another jurisdiction. Is this consistent with your intent?

8 SECTION 7. 343.05 (1) (b) of the statutes is repealed.

****NOTE: I'm not sure what the purpose of this provision is. It seems unnecessary. Is it okay to repeal it?

9 SECTION 8. 343.06 (1) (j) of the statutes is repealed.

****NOTE: This provision seems unnecessary given created s. 343.165 (1). If you do not want this provision repealed, it should probably be amended to specify "full legal name".

10 SECTION 9. 343.06 (1) (L) of the statutes, as created by 2005 Wisconsin Act 126

11 (AB-69), is amended to read:

12 343.06 (1) (L) To any person who does not ~~provide the documentary proof~~
13 ~~described in s. 343.14 (2) (er)~~ satisfy the requirements under s. 343.165.

****NOTE: The effect of this provision, as created in 2005 ^{Act 126} ~~AB-69~~, is now carried out in s. 343.165 (1) (e).

14 SECTION 10. 343.10 (1) (b) of the statutes, as affected by 2005 Wisconsin Act 33,
15 is amended to read:

16 343.10 (1) (b) The Subject to s. 343.165, the application shall be in a form
17 established by the department and shall identify the specific motor vehicle that the
18 applicant seeks authorization to operate, including the vehicle classification and any
19 required endorsements. The application shall include an explanation of why

1 operating the motor vehicle is essential to the person's livelihood and identify the
2 person's occupation or trade. The application shall identify the applicant's employer,
3 and include proof of financial responsibility as specified in s. 343.38 (1) (c) covering
4 the vehicle or vehicles that the applicant requests authorization to operate. The
5 application shall identify the hours of operation and routes of travel being requested
6 by the applicant in accord with the restrictions of sub. (5).

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 269, 401, 436, 448; 1997 a. 35, 84, 237; 1999 a. 109; 2001 a. 16 ss. 3409f, 3409g, 4060hw, 4060hy; 2003 a. 33, 80, 200, 326.

7 **SECTION 11.** 343.10 (2) (a) (intro.) of the statutes is amended to read:

8 343.10 (2) (a) (intro.) Except as provided in pars. (b) to (e), and subject to s.
9 343.165, a person is eligible for an occupational license if the following conditions are
10 satisfied:

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 269, 401, 436, 448; 1997 a. 35, 84, 237; 1999 a. 109; 2001 a. 16 ss. 3409f, 3409g, 4060hw, 4060hy; 2003 a. 33, 80, 200, 326.

11 **SECTION 12.** 343.10 (7) (b) of the statutes is amended to read:

12 343.10 (7) (b) The Subject to s. 343.165, the department shall issue an
13 occupational license as soon as practicable upon receipt of an application to the
14 department under sub. (1) or an order from a court under sub. (4) or s. 351.07 for such
15 a license, if the department determines that the applicant is eligible under sub. (2).

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 269, 401, 436, 448; 1997 a. 35, 84, 237; 1999 a. 109; 2001 a. 16 ss. 3409f, 3409g, 4060hw, 4060hy; 2003 a. 33, 80, 200, 326.

16 **SECTION 13.** 343.10 (7) (d) of the statutes is amended to read:

17 343.10 (7) (d) An occupational license issued by the department under this
18 subsection shall be in the form of a ~~photo~~ license that includes a photograph
19 described in s. 343.14 (3) and any special restrictions cards under s. 343.17 (4). The
20 license shall clearly indicate that restrictions on a special restrictions card apply and
21 that the special restrictions card is part of the person's license.

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 269, 401, 436, 448; 1997 a. 35, 84, 237; 1999 a. 109; 2001 a. 16 ss. 3409f, 3409g, 4060hw, 4060hy; 2003 a. 33, 80, 200, 326.

1 SECTION 14. 343.10 (7) (f) of the statutes is amended to read:

2 343.10 (7) (f) The expiration date of the occupational license is the 2nd working
3 day after the date of termination of the period of revocation or suspension as provided
4 by law, or the expiration date determined under s. 343.20 (1m), whichever is earlier.
5 The occupational license may be revoked, suspended or canceled before termination
6 of that period. An occupational license is not renewable when it expires. If an
7 occupational license expires and is not revoked, suspended or canceled, the licensee
8 may obtain a new license upon that expiration but only if he or she complies with the
9 conditions specified in s. ss. 343.165 and 343.38. Revocation, suspension or
10 cancellation of an occupational license has the same effect as revocation, suspension
11 or cancellation of any other license.

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 269, 401, 436, 448; 1997 a. 35, 84, 237; 1999 a. 109; 2001 a. 16 ss. 3409f, 3409g, 4060hw, 4060hy; 2003 a. 33, 80, 200, 326.

12 SECTION 15. 343.14 (2) (a), (b) and (br) of the statutes are amended to read:

13 343.14 (2) (a) The full legal name and principal residence address of the
14 applicant;

15 (b) The applicant's date of birth, color of eyes, color of hair, sex gender, height,
16 weight and race;

****NOTE: Do you want this change? I believe that "sex" is a more accurate term than "gender," but the REAL ID Act uses the term "gender."

17 (br) If the applicant does not have a social security number, a statement made
18 or subscribed under oath or affirmation that the applicant does not have a social
19 security number and is not eligible for a social security number. The statement shall
20 provide the basis or reason that the applicant is not eligible for a social security
21 number, as well as any information requested by the department that may be needed
22 by the department for purposes of verification under s. 343.165 (1) (d). The form of
23 the statement shall be prescribed by the department of workforce development. A

(c)

1 license that is issued or renewed under s. 343.17 in reliance on a statement
2 submitted under this paragraph is invalid if the statement is false.

History: 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 124, 360, 447; 1979 c. 306; 1981 c. 20 s. 1848r; 1985 a. 227; 1987 a. 27; 1987 a. 403 s. 256; 1989 a. 105, 294, 298, 359; 1991 a. 269; 1993 a. 363; 1995 a. 113; 1997 a. 27, 119, 191; 1999 a. 9, 80, 88; 2001 a. 93; 2003 a. 33; 2005 a. 25, 59.

3 SECTION 16. 343.14 (2) (er) 1. and 2. of the statutes, as created by 2005

4 Wisconsin Act ¹²⁶ ~~(AB-69)~~, are consolidated, renumbered 343.14 (2) (es) and ^(Intro.)
5 amended to read:

6 343.14 (2) (es) ^(Intro.) ~~Documentary~~ Subject to ^{sub. (2g)(a) 2. d. and 5.} ~~ss. 343.125 (2) (a) and (b) and 343.14~~

7 (2g)(a) 2. d. valid documentary proof that the individual is a citizen or national of
8 the United States or ~~documentary proof that the individual is legally present or an~~
9 alien lawfully admitted for permanent or temporary residence in the United States.

10 ~~2. If the individual is not a citizen of the United States, he or she shall provide~~
11 ~~documentary proof of his or her status as a legal permanent resident or conditional~~
12 ~~resident, a~~ ^{Plain} or has any of the following:

13 2. A valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry
14 into the United States, a pending or

15 3. An approved application for asylum in the United States, valid entry or has
16 entered into the United States in refugee status, a

17 5. A pending or approved application for temporary protected status in the
18 United States, approved.

19 6. Approved deferred action status, or a

20 7. A pending application for adjustment of status to legal that of an alien
21 lawfully admitted for permanent resident status residence in the United States or
22 conditional permanent resident status in the United States.

23 SECTION 17. 343.14 (2) (es) 1. and 4. of the statutes are created to read:

24 343.14 (2) (es) 1. Conditional permanent resident status in the United States.

SECTION #. 343.14(2j)(b), as affected by Wisconsin Act 59, is renumbered 343.14(2j). 2005

1 4. A pending application for asylum in the United States.

2 SECTION 18. 343.14 (2) (f) of the statutes is amended to read:

3 343.14 (2) (f) Such Subject to s. 343.165 (1), such further information as the
4 department considers appropriate to identify the applicant, including biometric
5 data, and such information as the department may reasonably require to enable it
6 to determine whether the applicant is by law entitled to the license applied for;

History: 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 124, 360, 447; 1979 c. 306; 1981 c. 20 s. 1848r; 1985 a. 227; 1987 a. 27; 1987 a. 403 s. 256; 1989 a. 105, 294, 298, 359; 1991 a. 269; 1993 a. 363; 1995 a. 113; 1997 a. 27, 119, 191; 1999 a. 9, 80, 88; 2001 a. 93; 2003 a. 33; 2005 a. 25.

7 SECTION 19. 343.14 (2j) (a) of the statutes is repealed.

****NOTE: This provision seems unnecessary given created s. 343.165 (1). See Note following created s. 343.165 (1) (c). ~~****~~ CS

8 SECTION 20. 343.14 (3) of the statutes is amended to read:

9 343.14 (3) The department shall, as part of the application process, take a
10 digital photograph including facial image capture of the applicant to comply with s.
11 ~~343.17 (3) (a) 2. Except where specifically exempted by statute or by rule of the~~
12 department, no ~~No~~ application may be processed without the photograph being
13 taken. ~~In~~ Except as provided in s. 343.165 (4) (d), in the case of renewal licenses, the
14 photograph shall be taken once every 8 years, and shall coincide with the appearance
15 for examination which is required under s. 343.16 (3). ~~The department may make~~
16 ~~provision for issuance of a license without a photograph if the applicant is stationed~~
17 ~~outside the state in military service and in specific situations where the department~~
18 ~~deems such action appropriate.~~

History: 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 124, 360, 447; 1979 c. 306; 1981 c. 20 s. 1848r; 1985 a. 227; 1987 a. 27; 1987 a. 403 s. 256; 1989 a. 105, 294, 298, 359; 1991 a. 269; 1993 a. 363; 1995 a. 113; 1997 a. 27, 119, 191; 1999 a. 9, 80, 88; 2001 a. 93; 2003 a. 33; 2005 a. 25.

****NOTE: As discussed by e-mail, in promulgating the federal regulations, the department of homeland security does not have authority to promulgate rules inconsistent with the enabling legislation of the REAL ID Act, so I have assumed that the federal statute will be implemented according to its plain meaning and without exceptions that do not appear in the REAL ID Act. Since the REAL ID Act seems to require photos on driver's licenses and identification cards without exception, I have eliminated photograph exceptions for operator's licenses. I believe that almost all courts addressing the issue have found no First Amendment right to avoid a photo on an operator's license.

1 **SECTION 21.** 343.14 (4m) of the statutes is amended to read:

2 343.14 (4m) ~~The Subject to s. 343.17 (2), the~~ department shall develop designs
3 for licenses and identification cards which are resistant to tampering and forgery ~~no~~
4 ~~later than January 1, 1989. Licenses and licenses~~ and identification cards issued on
5 or after January 1, 1989, shall incorporate the designs required under this
6 subsection.

7 History: 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 124, 360, 447; 1979 c. 306; 1981 c. 20 s. 1848r; 1985 a. 227; 1987 a. 27; 1987 a. 403 s. 256; 1989 a. 105, 294, 298, 359; 1991 a. 269; 1993 a. 363; 1995 a. 113; 1997 a. 27, 119, 191; 1999 a. 9, 80, 88; 2001 a. 93; 2003 a. 33; 2005 a. 25.

8 **SECTION 22.** 343.16 (3) (a) of the statutes is amended to read:

9 343.16 (3) (a) ~~The Except as provided in s. 343.165 (4) (d), the~~ department shall
10 examine every applicant for the renewal of an operator's license once every 8 years.
11 The department may institute a method of selecting the date of renewal so that such
12 examination shall be required for each applicant for renewal of a license to gain a
13 uniform rate of examinations. The examination shall consist of a test of eyesight.
14 The department shall make provisions for giving such examinations at examining
15 stations in each county to all applicants for an operator's license. The person to be
16 examined shall appear at the examining station nearest the person's place of
17 residence or at such time and place as the department designates in answer to an
18 applicant's request. In lieu of examination, the applicant may present or mail to the
19 department a report of examination of the applicant's eyesight by an
20 ophthalmologist, optometrist or physician licensed to practice medicine. The report
21 shall be based on an examination made not more than 3 months prior to the date it
22 is submitted. The report shall be on a form furnished and in the form required by

1 the department. The department shall decide whether, in each case, the eyesight
2 reported is sufficient to meet the current eyesight standards.

History: 1971 c. 164 s. 83; 1973 c. 90, 176; 1975 c. 36, 199; 1977 c. 29 ss. 1456, 1654 (7) (a), (c); 1977 c. 273, 418; 1979 c. 34 ss. 1067m, 2102 (52) (a); 1979 c. 221, 345; 1981 c. 20; 1983 a. 74, 243, 534, 538; 1985 a. 65, 337; 1987 a. 3, 40, 215; 1989 a. 31, 105, 359; 1991 a. 21, 32, 39, 316; 1993 a. 16, 19, 183, 399; 1995 a. 27 s. 9145 (1); 1995 a. 113, 195, 448; 1997 a. 27, 84, 237; 1999 a. 32, 140; 2001 a. 105; 2003 a. 33.

3 **SECTION 23.** 343.165 of the statutes is created to read:

4 **343.165 Processing license and identification card applications. (1)**

5 The department may not complete the processing of an application for initial
6 issuance, renewal, or reinstatement of an operator's license or identification card,
7 including an occupational license, or for a reissued or duplicate operator's license,
8 received by the department after May 10, 2008, and no such license or identification
9 card may be issued, renewed, reinstated, or reissued unless the applicant presents
10 or provides, and the department verifies under sub. (3), all of the following
11 information:

****NOTE: I did not include "endorsement" in this provision. Is this OK? The term "reissued" refers to reissuance under s. 343.265 following surrender (and tracks the language of that provision). Is this term OK?

12 (a) An identity document that either includes the applicant's photograph or
13 includes both the applicant's full legal name and date of birth.

****NOTE: The REAL ID Act refers to an "identity document" but this term is not used anywhere else in Wisconsin statutes. The terms "identifying document" and "identification document" are used elsewhere in the statutes. Would you prefer either of these terms?

14 (b) Documentation showing the applicant's date of birth, which may be the
15 identity document under par. (a).

****NOTE: This paragraph tracks the language of the REAL ID Act. The language "documentation showing" is unconventional in terms of the Wisconsin statutes. However, using a term such as "documentary proof of" would change the meaning of the provision.

16 (c) Proof of the applicant's social security number or, except as provided in s.
17 343.14 (2g) (a) 4., verification that the applicant is not eligible for a social security
18 number.

****NOTE: This requirement is different from current s. 343.14 (2j) (a). Since adding this requirement renders s. 343.14 (2j) (a) useless except with respect to renewal (see Note to sub. (4) (c) below), I have repealed s. 343.14 (2j) (a). *****
CS

1 (d) Documentation showing the applicant's name and address of principal
2 residence.

****NOTE: See Note after sub. (3) (a). *****
CS

3 (e) Subject to ss. 343.125 (2) (a) and (b) and 343.14 (2g) (a) 2. d., the
4 documentary proof described in s. 343.14 (2) (es).

****NOTE: This provision replaces s. 343.06 (1) (L) created in 2005 ^{Act 126} ~~AB-69~~.

****NOTE: While sub. (1) here does not cover applications for only an "endorsement," I have included cross-references to ss. 343.125 (2) and 343.14 (2g) (a) 2. d. for circumstances in which the H endorsement is applied for with the license. Also, do you think this provision has the proper effect vis-a-vis ss. 343.125 (2) and 343.14 (2g) (a) 2. d.? This language is intended to allow applications that include an "H" endorsement to trump the provisions otherwise applicable, since those standards seem stricter.

5 (2) (a) The department shall, in processing any application for an operator's
6 license or identification card under sub. (1), capture a digital image of each document
7 presented or provided, and retain the paper copy of any document provided, to the
8 department by an applicant. Digital images captured under this ^{paragraph} subsection shall be
9 ^{maintained} retained, in electronic storage and in a transferable format, in the applicant's file or
10 record as provided under ss. 343.23 (2) (a) and 343.50 (8) (a).

11 (b) The department shall record in the applicant's file under s. 343.23 (2) (a) or
12 record under s. 343.50 (8) (a) the date on which verification under subs. (1) and (3)
13 is completed.

****NOTE: This is not specifically required by the REAL ID Act, but works in conjunction with sub. (4) to allow subsequent abbreviated verification procedures.

14 (3) (a) Except as provided in pars. (b) and (c), the department shall verify, with
15 the issuing agency, the issuance, validity, and completeness of each document
16 presented or provided, and required to be presented or provided, to the department
17 by an applicant under sub. (1).

****NOTE: As discussed, the meaning of the language in the REAL ID Act is unclear, especially what is meant by an "issuing agency" in the context of verifying principal

residence. I have not attempted to work out the problems of the federal legislation, but have simply repeated its requirements. As discussed, permissible forms of proof of residence might include those allowed for voting purposes (see s. 6.55 (7)) or those identified in an AAMVA approved list or other forms. The language of the REAL ID Act would seem to preclude the use of mailing as the method of verification, however. The details of verification of principal residence (as well as other forms of verification) may be established by rule. Under s. 343.02 (1), DOT already has authority to promulgate rules to administer the chapter. DOT is also required to promulgate rules related to license design and specifications. See s. 343.17 (6) ^o

1 (b) The department may not accept any foreign document, other than an official
 2 passport, to satisfy a requirement under sub. (1).[✓]

3 (c) The department may, pursuant to any memorandum of understanding
 4 entered into with the secretary of the federal department of homeland security,
 5 utilize any automated system administered or recognized by the federal government
 6 to verify, for purposes of sub. (1) (e),[✓] the legal presence status of an applicant, other
 7 than a United States citizen, for an operator's license or identification card identified
 8 in sub. (1).[✓]

9 (d) For purposes of sub. (1) (d),[✓] the department shall verify with the federal
 10 social security administration a social security number presented by an applicant
 11 using the full social security number. If the social security number presented is
 12 already registered to or associated with another person to which this state or another
 13 jurisdiction has issued an operator's license or identification card, the department
 14 may investigate and take appropriate action to resolve the discrepancy or may direct
 15 the applicant to investigate and take appropriate action to resolve the discrepancy,
 16 but the department shall not issue any operator's license or identification card until
 17 the discrepancy is resolved. The department shall adopt verification[✓] procedures for
 18 purposes of verifying that^{STEP} an applicant is not eligible for a social security number.^{STEP}

****NOTE: This paragraph deviates somewhat from the language of the REAL ID Act in order to authorize DOT to put the burden of resolving the discrepancy on the applicant. Also, it seems that something must be added regarding verification of ineligibility for a social security number, so I have added a sentence to address this issue.

1 (4) (a) Subsection (1) does not apply to an application for renewal of an
 2 operator’s license or identification card, initial issuance of an occupational license,
 3 reinstatement of an operator’s license as provided under s. 343.38 (3) or 343.39,
 4 issuance of a duplicate license, or reissuance of an operator’s license, received by the
 5 department after May 10, 2008, if in connection with a prior application after May
 6 10, 2008, the applicant previously presented or provided, and the department
 7 verified, the information specified in sub. (1) and the department recorded the date
 8 on which the verification procedures were completed as described in sub. (2) (b).

9 (b) The department shall establish an effective procedure to confirm or verify
 10 an applicant’s information for purposes of any application described in par. (a). The
 11 procedure shall include verification of the applicant’s social security number or
 12 ineligibility for a social security number.

***NOTE: The key provisions of the REAL ID Act impose requirements “before issuing” a driver’s license or identification card and require states to “establish an effective procedure to confirm or verify a renewing applicant’s information.” I have drafted this subsection in an effort to comply with these federal provisions while leaving DOT flexibility to use more abbreviated security procedures upon license renewal. The provision requiring SSN verification is salvaged from s. 343.14 (2j) (a), which is repealed in this draft.

13 (c) Notwithstanding pars. (a) and (b), no operator’s license or identification card
 14 displaying the legend “Noncitizen Temporary License” under s. 343.03 (3m) or 343.50
 15 (3) may be renewed unless the applicant presents or provides valid documentary
 16 proof under sub. (1) (e) and this proof shows that the status by which the applicant
 17 qualified for the license or identification card has been extended by the secretary of
 18 the federal department of homeland security.

***NOTE: The language of this provision tracks the REAL ID Act with respect to temporary noncitizen licenses.

19 (d) With any license renewal following a license expiration established under
 20 s. 343.20 (1m) at other than an 8-year interval, the department may determine

STET
 displaying the legend
 "Noncitizen Temporary License" under s.

bmm
 STET

1 whether the applicant's photograph is to be taken, or the applicant is to be examined,
 2 or both, at the time of such renewal, so long as the applicant's photograph is taken,
 3 and the applicant is examined, with a license renewal at least once every 8 years and
 4 the applicant's license at all times includes a photograph. With any identification
 5 card renewal following a license expiration established under s. 353.50 (5) (c) at other
 6 than a 4-year interval, the department may determine whether the applicant's
 7 photograph is to be taken at the time of such renewal, so long as the applicant's
 8 photograph is taken with a card renewal at least once every 4 years and the
 9 applicant's identification card at all times includes a photograph.

10 (5) During the period in which the department processes an application under
 11 this section, the department may issue a receipt under s. 343.11 (3).

12 SECTION 24. 343.17 (1) of the statutes is amended to read:

13 343.17 (1) LICENSE ISSUANCE. The Subject to s. 343.165, the department shall
 14 issue an operator's license and endorsements, as applied for, to every qualifying
 15 applicant who has paid the required fees.

16 SECTION 25. 343.17 (2) of the statutes is amended to read:

17 *strike* 343.17 (2) LICENSE DOCUMENT. The license shall be a single document, in
 18 ~~one part~~ ^{one part}, consisting of 2 sides, except as otherwise provided in sub. (4) and s. 343.10
 19 (7) (d). The document shall be, ~~to the maximum extent practicable, tamper proof~~
 20 contain physical security features designed to prevent tampering, counterfeiting, or
 21 duplication of the document for fraudulent purposes, and shall incorporate a
 22 common machine-readable technology, with defined minimum data elements,
 23 consistent with any requirement under federal law.

History: 1971 c. 140; 1977 c. 29 s. 1654 (7) (a); 1977 c. 124, 272; 1979 c. 89, 306, 355; 1981 c. 20; 1985 a. 316 s. 25; 1989 a. 105, 298; 1991 a. 269; 1993 a. 19; 1995 a. 113; 1997 a. 27; 1999 a. 9, 140; 2003 a. 33.

24 SECTION 26. 343.17 (3) (a) 1., 3., and 5. of the statutes are amended to read:

1 343.17 (3) (a) 1. The full legal name, date of birth, and principal residence
2 address of the person.

3 3. A physical description of the person, including ~~sex~~ gender, height, weight and
4 hair and eye color, but excluding any mention of race.

5 5. ~~A facsimile of the~~ The person's signature, ~~or a space upon which the licensee~~
6 ~~shall immediately write his or her usual signature with a pen and ink on receipt of~~
7 ~~the license, without which the license is not valid.~~ ✓

8 **SECTION 27.** 343.17 (3) (a) 14. of the statutes, as created by 2005 Wisconsin Act

9 ¹²⁶ ~~(AB-69)~~, is repealed.

***NOTE: Under current law, the date of expiration must already be on the license under s. 343.17 (3) (a) 9. Since the license must expire when legal presence is no longer authorized, I have repealed this provision, the substance of which is covered by s. 343.17 (3) (a) 9. and the provisions on license expiration. I note that I have not created a "distinctive appearance" for these licenses issued to noncitizens.

10 **SECTION 28.** 343.17 (3) (b) of the statutes, as affected by 2003 Wisconsin Act 33,
11 is amended to read:

12 343.17 (3) (b) The In addition to any legend required under s. 343.03 (3m), the
13 reverse side of the license shall contain an explanation of any restriction codes or
14 endorsement abbreviations used on the front of the license, in sufficient detail to
15 identify the nature of the restrictions or endorsements to a law enforcement officer
16 of this state or another jurisdiction. Except for a commercial driver license, a part
17 of the reverse side of each license shall be printed to serve as a document of gift under
18 s. 157.06 (2) (b) and (c) or a document of refusal to make an anatomical gift under s.
19 157.06 (2) (i).

History: 1971 c. 140; 1977 c. 29 s. 1654 (7) (a); 1977 c. 124, 272; 1979 c. 89, 306, 355; 1981 c. 20; 1985 a. 316 s. 25; 1989 a. 105, 298; 1991 a. 269; 1993 a. 19; 1995 a. 113; 1997 a. 27; 1999 a. 9, 140; 2003 a. 33.

20 **SECTION 29.** 343.17 (5) of the statutes is amended to read:

1 343.17 (5) NO PHOTOS ON CERTAIN TEMPORARY LICENSES. The temporary licenses
 2 issued under ss. 343.10, 343.11 (1) and (3), 343.16 (6) (b) and 343.305 (8) (a) shall be
 3 on forms provided by the department and shall contain the information required by
 4 sub. (3), except the license is not required to include a photograph of the licensee.
 5 This subsection does not apply to a noncitizen temporary license, as described in s.
 6 343.03 (3m).

7 **History:** 1971 c. 140; 1977 c. 29 s. 1654 (7) (a); 1977 c. 124, 272; 1979 c. 89, 306, 355; 1981 c. 20; 1985 a. 316 s. 25; 1989 a. 105, 298; 1991 a. 269; 1993 a. 19; 1995 a. 113; 1997 a. 27; 1999 a. 9, 140; 2003 a. 33.

8 **NOTE:** This ~~draft~~ ^{STET} does not allow DOT to issue any driver authorization that does
 9 not comply with the federal guidelines (e.g., driving certificate). The REAL ID Act
 10 provides: "(11) In any case in which the State issues a driver's license or identification
 11 card that does not satisfy the requirements of this section, [the state must adopt a practice
 12 to] ensure that such license or identification card (A) clearly states on its face that it
 13 may not be accepted by any Federal agency for federal identification or any other official
 14 purpose; and (B) uses a unique design or color indicator to alert Federal agency and other
 15 law enforcement personnel that it may not be accepted for any such purpose." Since this
 16 provision is inapplicable to the draft, it is not included. However, to the extent it becomes
 17 applicable, provisions relating to a "distinctive appearance" etc. similar to those in s.
 18 343.17 (3) (a) 12. and 13., and their cancellation would come into play.

8 **SECTION 30.** 343.19 (1) of the statutes is amended to read:

9 343.19 (1) If a license issued under this chapter or an identification card issued
 10 under s. 343.50 is lost or destroyed or the name or address named in the license or
 11 identification card is changed or the condition specified in s. 343.17 (3) (a) 12. or 13.
 12 no longer applies, the person to whom the license or identification card was issued
 13 may obtain a duplicate thereof or substitute therefor upon furnishing proof
 14 satisfactory to the department of full legal name and date of birth and that the license
 15 or identification card has been lost or destroyed or that application for a duplicate
 16 license or identification card is being made for a change of address or name or
 17 because the condition specified in s. 343.17 (3) (a) 12. or 13. no longer applies. If the
 18 applicant is a male who is at least 18 years of age but less than 26 years of age, the
 19 application shall include the information required under s. 343.14 (2) (em). If the

1 original license or identification card is found it shall immediately be transmitted to
 2 the department. ~~Duplicates of nonphoto licenses shall be issued as nonphoto~~
 3 ~~licenses.~~

History: 1973 c. 218; 1977 c. 29 s. 1654 (7) (a); 1977 c. 360, 447; 1979 c. 306; 1981 c. 20 s. 1848r; 1987 a. 27, 40; 1989 a. 105; 1991 a. 39, 269; 1997 a. 27; 1999 a. 9, 80; 2001 a. 93.

***NOTE: The last sentence of this provision could be amended to apply only to temporary licenses not required under s. 343.17 (5) to include a photograph. However, since the provision would have such limited applicability, I think it is better to simply strike the whole sentence. Is that OK?

④ SECTION 31. 343.20 (1) (f) of the statutes, as created by 2005 Wisconsin Act ~~✓~~

⑤ ¹²⁶ (AB-69), is amended to read:

6 343.20 (1) (f) The department shall cancel an operator's license, regardless of
 7 the license expiration date, if the department is notified by receives information from
 8 a local, state, or federal government agency that the operator is no longer a citizen
 9 of the United States, a legal permanent resident of the United States, or a conditional
 10 resident of the United States, or otherwise not legally present in the United States
 11 licensee no longer satisfies the requirements for issuance of a license under ss. 343.14
 12 (2) (es) and 343.165 (1) (e).

⑬ SECTION 32. 343.20 (1m) of the statutes, as created by 2005 Wisconsin Act ~~✓~~

⑭ ¹²⁶ (AB-69), is amended to read:

15 343.20 (1m) A Notwithstanding sub. (1) (a) and (e), and except as provided in
 16 s. 343.165 (4) (c) and as otherwise provided in this subsection, a license that is issued
 17 to a person who is not a United States citizen and who provides documentary proof
 18 of legal status as provided under s. 343.14 (2) ~~(er)~~ (es) shall expire on the date that
 19 the person's legal presence in the United States is no longer authorized or on the
 20 expiration date determined under sub. (1), whichever date is earlier. If the
 21 documentary proof as provided under s. 343.14 (2) ~~(er)~~ (es) does not state the date
 22 that the person's legal presence in the United States is no longer authorized, sub. (1)

1 shall apply except that, if the license was issued or renewed based upon the person's
 2 presenting of any documentary proof specified in s. 343.14 (2) (es) 4. to 7., the license
 3 shall, subject to s. 343.165 (4) (c), expire one year after the date of issuance or
 4 renewal.

****NOTE: Should this say "who is not a United States citizen or national"? Also, the REAL ID Act states "if there is no definite end to the period of authorized stay" rather than relying on a date included in the "documentary proof" - is the provision in this draft OK?

****NOTE: I did not make any provision for prorating driver license fees for noncitizens whose licenses expire in less than 8 years. Do you want a provision similar to last sentence of s. 343.20 (1) (a)?

Act 126
 ****NOTE: The REAL ID Act distinguishes between different noncitizens. In some senses, 2005 AB 469 goes beyond the requirements of the REAL ID Act and, in some senses, it does not go as far. I have attempted to incorporate the requirements of the REAL ID Act without undoing any more stringent requirement of 2005 AB 469. Act 126

5 SECTION 33. 343.20 (2) (a) of the statutes is amended to read:

6 343.20 (2) (a) The department shall mail to the last-known address of a
 7 licensee at least 30 days prior to the expiration of the license a notice of the date upon
 8 which the license must be renewed. If the license was issued or last renewed based
 9 upon the person's presenting of any documentary proof specified in s. 343.14 (2) (es)
 10 4. to 7., the notice shall inform the licensee of the requirement under s. 343.165 (4)
 11 (c).

History: 1977 c. 29 s. 1654 (7) (a); 1977 c. 273; 1979 c. 306; 1981 c. 20, 42, 71; 1989 a. 31, 105, 294; 1991 a. 13; 1995 a. 255, 446; 1997 a. 27, 237; 2001 a. 105; 2003 a. 33, 280.

12 SECTION 34. 343.22 (1) of the statutes is repealed.

****NOTE: I repealed this provision because it applies only to licenses with photographs. Technically, the provision could still apply to temporary licenses described under s. 343.17 (5). However, there would be such limited applicability that I thought it better to repeal the provision. See corresponding amendment to s. 343.22 (2) (intro.)

13 SECTION 35. 343.22 (2) (intro.) and (a) of the statutes are amended to read:

14 343.22 (2) (intro.) Whenever any person, after applying for or receiving a
 15 license containing a photograph under this chapter, or an identification card under
 16 s. 343.50, moves from the address named in the application or in the license or

1 identification card issued to him or her or is notified by the local authorities or by the
2 postal authorities that the address so named has been changed, the person shall,
3 within 10 days thereafter, do one of the following:

4 (a) Apply for a duplicate license or identification card showing on the
5 application the correct full legal name and address. The licensee or identification
6 card holder shall return the current license or identification card to the department
7 along with the application for duplicate.

8 **History:** 1973 c. 129, 218, 336; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273, 360, 447; 1979 c. 306; 1981 c. 20 s. 1848r; 1985 a. 14; 1989 a. 105; 1991 a. 39; 2003 a. 33.

8 **SECTION 36. 343.22 (2m)** of the statutes is amended to read:

9 **343.22 (2m)** Whenever any person, after applying for or receiving a license
10 ~~containing a photograph~~ under this chapter, or an identification card under s. 343.50,
11 is notified by the local authorities or by the postal authorities that the address named
12 in the application or in the license or identification card issued to him or her has been
13 changed and the person applies for a duplicate license or identification card under
14 sub. (2), no fee shall be charged under s. 343.21 (1) (L) or 343.50 (7) for the duplicate
15 license or identification card.

16 **History:** 1973 c. 129, 218, 336; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273, 360, 447; 1979 c. 306; 1981 c. 20 s. 1848r; 1985 a. 14; 1989 a. 105; 1991 a. 39; 2003 a. 33.

16 **SECTION 37. 343.22 (3)** of the statutes is amended to read:

17 **343.22 (3)** When the name of a licensee or identification card holder is changed,
18 such person shall, within 10 days thereafter, apply for a duplicate license or
19 identification card showing the correct full legal name and address. The licensee or
20 identification card holder shall return the current license or identification card to the
21 department along with the application for a duplicate. If the licensee holds more
22 than one type of license under this chapter, the licensee shall return all such licenses

1 to the department along with one application and fee for a duplicate license for which
2 the licensee may be issued a duplicate of each such license.

History: 1973 c. 129, 218, 336; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273, 360, 447; 1979 c. 306; 1981 c. 20 s. 1848r; 1985 a. 14; 1989 a. 105; 1991 a. 39; 2003 a. 33.

History: 1971 c. 140; 1977 c. 29 s. 1654 (7) (a); 1977 c. 124, 272; 1979 c. 89, 306, 355; 1981 c. 20; 1985 a. 316 s. 25; 1989 a. 105, 298; 1991 a. 269; 1993 a. 19; 1995 a. 113; 1997 a. 27; 1999 a. 9, 140; 2003 a. 33.

3 **SECTION 38.** 343.23 (2) (a) (intro.) of the statutes, as affected by 2003 Wisconsin

4 Acts 33 and 280, is amended to read:

5 343.23 (2) (a) (intro.) The department shall maintain a file for each licensee or
6 other person containing the application for license, permit or endorsement, a record
7 of reports or abstract of convictions, any demerit points assessed under authority of
8 s. 343.32 (2), the information in all data fields printed on any license issued to the
9 person, any notice received from the federal transportation security administration
10 concerning the person's eligibility for an "H" endorsement specified in s. 343.17 (3)
11 (d) 1m., the status of the person's authorization to operate different vehicle groups,
12 a record of any out-of-service orders issued under s. 343.305 (7) (b) or (9) (am), a
13 record of the date on which any background investigation specified in s. 343.12 (6)
14 (a) or (d) was completed, a record of the date on which any verification specified in
15 s. 343.165 (1) and (3) was completed, all documents required to be maintained under
16 s. 343.165 (2) (a), and a record of any reportable accident in which the person has
17 been involved, including specification of any type of license and endorsements issued
18 under this chapter under which the person was operating at the time of the accident
19 and an indication whether or not the accident occurred in the course of any of the
20 following:

History: 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 273; 1979 c. 331; 1981 c. 178; 1983 a. 74; 1987 a. 3; 1989 a. 31, 105, 133, 359; 1991 a. 277; 1993 a. 65; 1995 a. 113, 184, 338; 1997 a. 35, 84, 237; 1999 a. 32, 109; 2001 a. 38, 109; 2003 a. 30, 33, 280, 320.

21 **SECTION 39.** 343.23 (2) (b) of the statutes, as affected by 2003 Wisconsin Acts

22 33 and 320, is amended to read:

1 343.23 (2) (b) The information specified in pars. (a) and (am) must be filed by
2 the department so that the complete operator's record is available for the use of the
3 secretary in determining whether operating privileges of such person shall be
4 suspended, revoked, canceled, or withheld, or the person disqualified, in the interest
5 of public safety. The record of suspensions, revocations, and convictions that would
6 be counted under s. 343.307 (2) shall be maintained permanently, except that the
7 department shall purge the record of a first violation of s. 23.33 (4c) (a) 2., 30.681 (1)
8 (b) 1., 346.63 (1) (b), or 350.101 (1) (b) after 10 years, if the person who committed the
9 violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the
10 time of the violation, if the person does not have a commercial driver license, if the
11 violation was not committed by a person operating a commercial motor vehicle, and
12 if the person has no other suspension, revocation, or conviction that would be counted
13 under s. 343.307 during that 10-year period. The record of convictions for
14 disqualifying offenses under s. 343.315 (2) (h) shall be maintained for at least 10
15 years. The record of convictions for disqualifying offenses under s. 343.315 (2) (f) and
16 (j), and all records specified in par. (am), shall be maintained for at least 3 years. The
17 record of convictions for disqualifying offenses under s. 343.315 (2) (a) to (e) shall be
18 maintained permanently, except that 5 years after a licensee transfers residency to
19 another state such record may be transferred to another state of licensure of the
20 licensee if that state accepts responsibility for maintaining a permanent record of
21 convictions for disqualifying offenses. Such reports and records may be cumulative
22 beyond the period for which a license is granted, but the secretary, in exercising the
23 power of suspension granted under s. 343.32 (2) may consider only those reports and
24 records entered during the 4-year period immediately preceding the exercise of such
25 power of suspension. The department shall maintain the digital images of

1 documents specified in s. 343.165 (2) (a) for at least 10 years and shall maintain the
2 paper copies of documents specified in s. 343.165 (2) (a) for at least 7 years.

3 **Cross Reference:** Cross Reference: Cross Reference: See also ch. Trans 100, Wis. adm. code. **Cross Reference:**
4 **History:** 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 273; 1979 c. 331; 1981 c. 178; 1983 a. 74; 1987 a. 3; 1989 a. 31, 105, 133, 359; 1991 a. 277; 1993 a. 65; 1995 a. 113, 184,
338; 1997 a. 35, 84, 237; 1999 a. 32, 109; 2001 a. 38, 109; 2003 a. 30, 33, 280, 320.

4 **SECTION 40.** 343.23 (5) of the statutes is amended to read:

5 343.23 (5) The department shall maintain the files specified in this section in
6 a form that is appropriate to the form of the records constituting those files. Records
7 under sub. (1) and files under sub. (2) shall be maintained in an electronic and
8 transferable format accessible for the purpose specified in s. 343.03 (6) (a).

9 **History:** 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 273; 1979 c. 331; 1981 c. 178; 1983 a. 74; 1987 a. 3; 1989 a. 31, 105, 133, 359; 1991 a. 277; 1993 a. 65; 1995 a. 113, 184,
338; 1997 a. 35, 84, 237; 1999 a. 32, 109; 2001 a. 38, 109; 2003 a. 30, 33, 280, 320.

9 **SECTION 41.** 343.26 of the statutes is amended to read:

10 **343.26 License after cancellation.** Any person whose license has been
11 canceled, whether the license has been canceled by the secretary or stands canceled
12 as a matter of law, may apply for a new license at any time. Upon receipt of the
13 application and the required fee, and after processing the application as provided in
14 s. 343.165, the department shall issue or refuse issuance of the license as upon an
15 original application. The department may, but need not, require the applicant to
16 submit to an examination as provided in s. 343.16.

17 **History:** 1977 c. 29 s. 1654 (7) (a), (c).

17 **SECTION 42.** 343.43 (1) (g) of the statutes is amended to read:

18 343.43 (1) (g) Deface or alter a license except to endorse a change of address
19 authorized by s. 343.22 (1) ~~or~~ (2).

20 **History:** 1975 c. 5, 199; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 360, 447; 1979 c. 306; 1981 c. 20 s. 1848r; 1983 a. 36, 534; 1989 a. 105; 1991 a. 189, 230; 1999 a. 9.

20 **SECTION 43.** 343.50 (1) of the statutes is renumbered 343.50 (1) (a) and
21 amended to read:

1 343.50 (1) (a) ISSUANCE. The Subject to par. (b) and s. 343.165, the department
2 shall issue to every qualified applicant, who has paid the required fee, an
3 identification card as provided in this section.

History: 1977 c. 360, 447; 1979 c. 226, 306; 1981 c. 20 s. 1848r; 1985 a. 29, 98; 1987 a. 27, 304; 1989 a. 105, 294, 298; 1991 a. 86, 269; 1995 a. 446; 1997 a. 27, 119, 191; 1999 a. 9, 32, 80, 85, 88, 186; 2001 a. 93; 2003 a. 33.

4 **SECTION 44.** 343.50 (1) (b) of the statutes is created to read:

5 343.50 (1) (b) The department may not issue an identification card to a person
6 previously issued an operator's license in another jurisdiction unless the person
7 surrenders to the department any valid operator's license possessed by the person
8 issued by another jurisdiction, which surrender operates as a cancellation of the
9 license insofar as the person's privilege to operate a motor vehicle in this state is
10 concerned. Within 30 days following issuance of the identification card under this
11 section, the department shall destroy any operator's license surrendered under this
12 paragraph and report to the jurisdiction that issued the surrendered operator's
13 license that the license has been destroyed and the person has been issued an
14 identification card in this state.

ds ****NOTE: This addresses REAL ID Act sec. 202 (d) (6) – I believe s. 343.11 (1) adequately covers driver licenses, and this provision is modeled after s. 343.11 (1) and (2).

15 **SECTION 45.** 343.50 (2) of the statutes is amended to read:

16 343.50 (2) WHO MAY APPLY. Any resident of this state who does not possess a
17 valid operator's license ~~which contains the resident's photograph~~ issued under this
18 chapter may apply to the department for an identification card pursuant to this
19 section. The card is not a license for purposes of this chapter and is to be used for
20 identification purposes only.

History: 1977 c. 360, 447; 1979 c. 226, 306; 1981 c. 20 s. 1848r; 1985 a. 29, 98; 1987 a. 27, 304; 1989 a. 105, 294, 298; 1991 a. 86, 269; 1995 a. 446; 1997 a. 27, 119, 191; 1999 a. 9, 32, 80, 85, 88, 186; 2001 a. 93; 2003 a. 33.

21 **SECTION 46.** 343.50 (3) of the statutes is amended to read:

1 343.50 (3) DESIGN AND CONTENTS OF CARD. The card shall be the same size as
 2 an operator's license but shall be of a design which is readily distinguishable from
 3 the design of an operator's license and bear upon it the words "IDENTIFICATION
 4 CARD ONLY". The information on the card shall be the same as specified under s.
 5 343.17 (3). If the issuance of the card requires the applicant to present any
 6 documentary proof specified in s. 343.14 (2) (es) 4. to 7., the card shall display, on the
 7 top of the reverse side of the card, the legend "Noncitizen Temporary Identification
 8 Card." The card shall contain physical security features designed to prevent
 9 tampering, counterfeiting, or duplication of the card for fraudulent purposes, and
 10 shall incorporate a common machine-readable technology, with defined minimum
 11 data elements, consistent with any requirement under federal law. The card may
 12 serve as a document of gift under s. 157.06 (2) (b) and (c) and the holder may affix
 13 a sticker thereto as provided in s. 343.175 (3). The card may also serve as a document
 14 of refusal to make an anatomical gift under s. 157.06 (2) (i). The card shall contain
 15 the holder's photograph and, if applicable, shall be of the design specified under s.
 16 343.17 (3) (a) 12.

History: 1977 c. 360, 447; 1979 c. 226, 306; 1981 c. 20 s. 1848r; 1985 a. 29, 98; 1987 a. 27, 304; 1989 a. 105, 294, 298; 1991 a. 86, 269; 1995 a. 446; 1997 a. 27, 119, 191;
 1999 a. 9, 32, 80, 85, 88, 186; 2001 a. 93; 2003 a. 33.

17 126 SECTION 47. 343.50 (4) of the statutes, as affected by 2005 Wisconsin Act *126*

18 1- (AB-69), is amended to read:

19 343.50 (4) APPLICATION. The application for an identification card shall include
 20 any information required under ss. 85.103 (2) and 343.14 (2) (a), (b), (bm), (br), (em),
 21 and ~~(er)~~ (es), and such further information as the department may reasonably
 22 require to enable it to determine whether the applicant is entitled by law to an
 23 identification card. The Except with respect to renewals described in s. 343.165 (4)
 24 (d), the department shall, as part of the application process, take a digital

1 photograph including facial image capture of the applicant to comply with sub. (3).
2 No Except with respect to renewals described in s. 343.165 (4) (d), no application may
3 be processed without the photograph being taken. Misrepresentations in violation
4 of s. 343.14 (5) are punishable as provided in s. 343.14 (9).

5 **SECTION 48.** 343.50 (5) of the statutes, as affected by 2005 Wisconsin Act *W*

6 ¹²⁶ ~~(AB-69)~~, is renumbered 343.50 (5) (a) and amended to read:

7 343.50 (5) VALID PERIOD; FEES. (a) The fee for an original card, for renewal of
8 a card, and for the reinstatement of an identification card after cancellation under
9 sub. (10) shall be \$9. The

10 (b) Except as provided in par. (c) and s. 343.165 (4) (c), an original or reinstated
11 card shall be valid for the succeeding period of 4 years from the applicant's next
12 birthday after the date of issuance, except that a, and a renewed card shall be valid
13 for the succeeding period of 4 years from the card's last expiration date.

14 (c) Except as provided in s. 343.165 (4) (c) and as otherwise provided in this
15 paragraph, an identification card that is issued to a person who is not a United States
16 citizen and who provides documentary proof of legal status as provided under s.
17 343.14 (2) (er) (es) shall expire on the date that the person's legal presence in the
18 United States is no longer authorized or on the expiration date determined under
19 par. (b), whichever date is earlier. If the documentary proof as provided under s.
20 343.14 (2) (er) (es) does not state the date that the person's legal presence in the
21 United States is no longer authorized, then the card shall be valid for the succeeding
22 period of 4 years from the applicant's next birthday after the date of issuance
23 specified in par. (b) except that, if the card was issued or renewed based upon the
24 person's presenting of any documentary proof specified in s. 343.14 (2) (es) 4. to 7.,

1 the card shall, subject to s. 343.165 (4) (c), expire one year after the date of issuance
2 or renewal. ✓

3 126 SECTION 49. 343.50 (6) ✓ of the statutes, as affected by 2005 Wisconsin Act. *nr*

4 (AB-69) ✓, is amended to read:

5 343.50 (6) RENEWAL NOTICE. At least 30 days prior to the expiration of the an
6 identification card, the department shall mail a renewal application to the
7 last-known address of each ~~identification~~ the card holder. If the card was issued or
8 last renewed based upon the person's presenting of any documentary proof specified
9 in s. 343.14 (2) (es) 4. to 7., the notice shall inform the card holder of the requirement
10 under s. 343.165 (4) (c). ✓ The department shall include with the application
11 information, as developed by all organ procurement organizations in cooperation
12 with the department, that promotes anatomical donations and which relates to the
13 anatomical donation opportunity available under s. 343.175. The fee for a renewal
14 ~~identification card shall be \$9, which card shall be valid for 4 years, except that a card~~
15 ~~that is issued to a person who is not a United States citizen and who provides~~
16 ~~documentary proof of legal status as provided under s. 343.14 (2) (er) shall expire on~~
17 ~~the date that the person's legal presence in the United States is no longer authorized.~~
18 ~~If the documentary proof as provided under s. 343.14 (2) (er) does not state the date~~
19 ~~that the person's legal presence in the United States is no longer authorized, then~~
20 ~~the card shall be valid for 4 years.~~

***NOTE: To avoid so much duplication, I have moved the stricken provisions into
sub. (5).

21 SECTION 50. 343.50 (8) of the statutes is amended to read:

22 343.50 (8) RECORDS AND OTHER INFORMATION. (a) The department shall
23 maintain current records of all identification card holders under this section in the

1 same manner as required under s. 343.23 for operator's licenses. For each
2 identification card applicant, the record shall include any application for an
3 identification card received by the department, any reinstatement or cancellation of
4 an identification card by the department, the information in all data fields printed
5 on any identification card issued to the applicant, a record of the date on which any
6 verification specified in s. 343.165 (1) and (3) was completed, and all documents
7 required to be maintained under s. 343.165 (2) (a). The department shall maintain
8 the digital images of documents specified in s. 343.165 (2) (a) for at least 10 years and
9 shall maintain the paper copies of documents specified in s. 343.165 (2) (a) for at least
10 7 years. Records under this paragraph shall be maintained in an electronic and
11 transferable format accessible for the purpose specified in par. (c).

12 (b) The department may not disclose any record or other information
13 concerning or relating to an applicant or identification card holder to any person
14 other than a court, district attorney, county corporation counsel, city, village or town
15 attorney, law enforcement agency, the applicant or identification card holder or, if the
16 applicant or identification card holder is under 18 years of age, his or her parent or
17 guardian. Except for photographs disclosed to a law enforcement agency under s.
18 343.237, persons entitled to receive any record or other information under this
19 paragraph shall not disclose the record or other information to other persons or
20 agencies. This paragraph does not prohibit disclosure under par. (c) or the disclosure
21 of a person's name or address, of the name or address of a person's employer or of
22 financial information that relates to a person when requested under s. 49.22 (2m) by
23 the department of workforce development or a county child support agency under s.
24 59.53 (5).

25 **SECTION 51.** 343.50 (8) (c) of the statutes is created to read:

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4307/P1dn

ARG:.....
wj

ATTN: Erin Egan

Rather than creating a long drafter's note, I have included many ^eimbedded notes within the draft. *

Please let me know if you have any questions.

Aaron R. Gary
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4307/P1dn
ARG:wlj:jf

March 24, 2006

ATTN: Erin Egan

Rather than creating a long drafter's note, I have included many embedded notes within the draft.

Please let me know if you have any questions.

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