



# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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

Date Transferred: 08/30/2006 (By: ARG)



Appendix A ... Part 04 of 06



The 2005 drafting file for LRB-4848

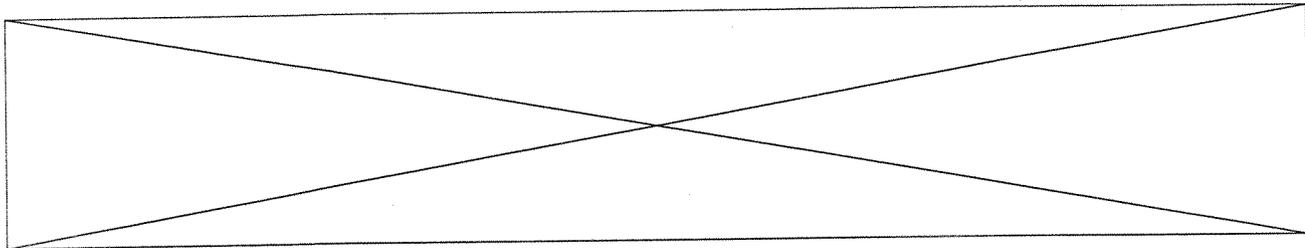
has been transferred to the drafting file for

**2007 LRB-0011**

 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.

**ENGROSSED BILL**



**SECTION 118.** 343.38 (4) (intro.) of the statutes is amended to read:

343.38 (4) FIRST ISSUANCE OF LICENSE IN WISCONSIN AFTER SUSPENSION OR REVOCATION BY ANOTHER STATE. (intro.) The department may issue an operator's license to a person moving to this state whose operating privileges have been previously suspended or revoked in another state jurisdiction when ~~their~~ the person's operating privilege has been reinstated or the person is eligible for reinstatement in that state the other jurisdiction and the following conditions have been met:

History: 1977 c. 29 s. 1654 (7) (a), (c); 1979 c. 306, 316; 1983 a. 525; 1989 a. 72; 1991 a. 277, 316; 1997 a. 27, 84; 1999 a. 143.

\*\*\*\*NOTE: I don't believe ss. 343.37, 343.38 (2) and (4) need to be otherwise treated because of exceptions allowing nonresident operating privileges to be revoked for non-DLA Code violations. If the draft were to completely eliminate operating privilege suspension or revocation for nonresidents, these sections would need to be further treated.

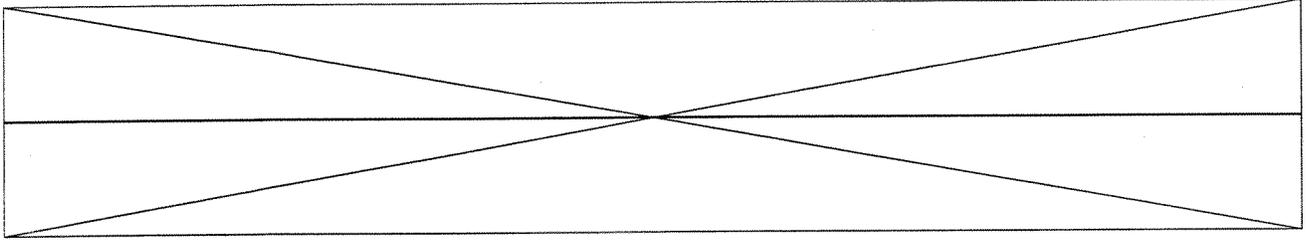
**SECTION 119.** 343.38 (4) (a) of the statutes is repealed.

**SECTION 120.** 343.38 (4) (b) of the statutes is repealed.

**SECTION 121.** 343.39 (1) (a) of the statutes is amended to read:

343.39 (1) (a) When, in the case of a suspended operating privilege, the period of suspension has terminated, the reinstatement fee specified in s. 343.21 (1) (j) has been paid to the department and, for reinstatement of ~~an~~ the operating privilege of a resident suspended under ch. 344, the person files with the

**ENGROSSED BILL**



department proof of financial responsibility, if required, in the amount, form and manner specified under ch. 344.

**History:** 1973 c. 90; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273; 1991 a. 39, 277; 1993 a. 16; 1997 a. 84.

**SECTION 122.** 343.44 (1) (a) of the statutes is amended to read:

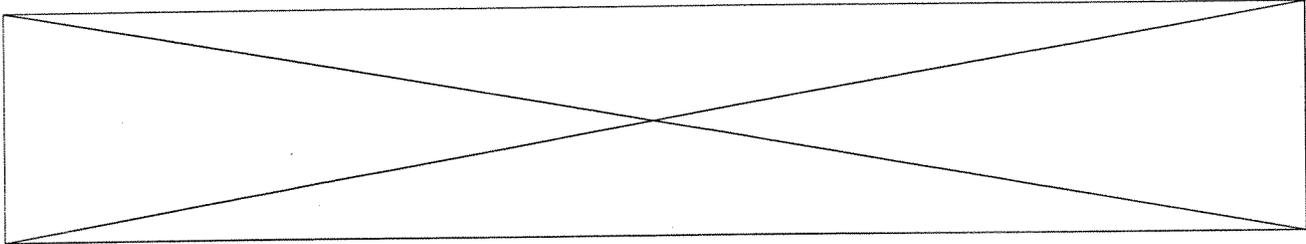
343.44 (1) (a) *Operating while suspended.* No person whose operating privilege has been duly suspended under the laws of this state or, if the person is not a resident, under the laws of the person's home jurisdiction, may operate a motor vehicle upon any highway in this state during the period of suspension or in violation of any restriction on an occupational license issued to the person during the period of suspension. A person's knowledge that his or her operating privilege is suspended is not an element of the offense under this paragraph. In this paragraph, "restriction on an occupational license" means restrictions imposed under s. 343.10 (5) (a) as to hours of the day, area, routes or purpose of travel, vehicles allowed to be operated, use of an ignition interlock device, sobriety or use of alcohol, controlled substances or controlled substance analogs.

**History:** 1971 c. 164 s. 83; 1971 c. 280, 307; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a); 1977 c. 165, 272; 1979 c. 221; 1981 c. 20; 1983 a. 535; 1989 a. 12, 105, 336; 1991 a. 39, 64, 189, 277; 1995 a. 113; 1997 a. 84; 1999 a. 9, 32, 143; 2003 a. 33.

**SECTION 123.** 343.44 (1) (b) of the statutes is amended to read:

343.44 (1) (b) *Operating while revoked.* No person whose operating privilege has been duly revoked under the laws of this state or, if the person is not a

**ENGROSSED BILL**



resident, under the laws of the person's home jurisdiction, may knowingly operate a motor vehicle upon any highway in this state during the period of revocation or in violation of any restriction on an occupational license issued to the person during the period of revocation. In this paragraph, "restriction on an occupational license" means restrictions imposed under s. 343.10 (5) (a) as to hours of the day, area, routes or purpose of travel, vehicles allowed to be operated, use of an ignition interlock device, sobriety or use of alcohol, controlled substances or controlled substance analogs.

History: 1971 c. 164 s. 83; 1971 c. 280, 307; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a); 1977 c. 165, 272; 1979 c. 221; 1981 c. 20; 1983 a. 535; 1989 a. 12, 105, 336; 1991 a. 39, 64, 189, 277; 1995 a. 113; 1997 a. 84; 1999 a. 9, 32, 143; 2003 a. 33.

**SECTION 124.** 343.44 (1) (c) of the statutes, as affected by 2003 Wisconsin Act 33, is amended to read:

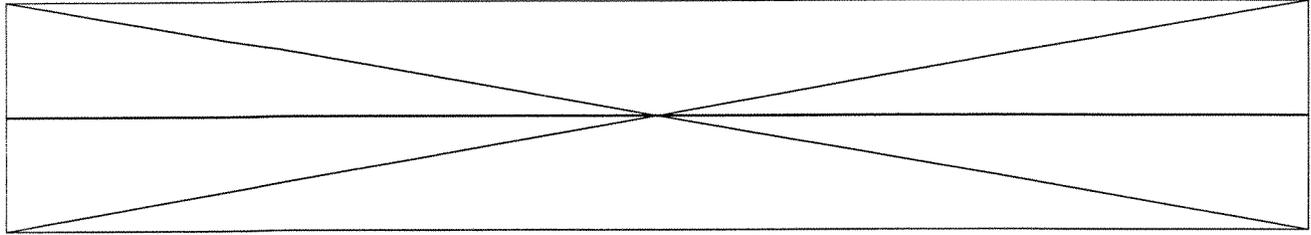
343.44 (1) (c) *Operating while ordered out-of-service.* No person may operate a commercial motor vehicle while the person or the commercial motor vehicle is ordered out-of-service under the law of this state or another jurisdiction or under federal law.

NOTE: NOTE: Par. (c) is amended eff. 9-30-05 by 2003 Wis. Act 33 to read:NOTE:

History: 1971 c. 164 s. 83; 1971 c. 280, 307; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a); 1977 c. 165, 272; 1979 c. 221; 1981 c. 20; 1983 a. 535; 1989 a. 12, 105, 336; 1991 a. 39, 64, 189, 277; 1995 a. 113; 1997 a. 84; 1999 a. 9, 32, 143; 2003 a. 33.

**SECTION 125.** 343.44 (1) (d) of the statutes, as affected by 2003 Wisconsin Act 33, is amended to read:

**ENGROSSED BILL**



(d) *Operating while disqualified.* No person may operate a commercial motor vehicle while disqualified under s. 343.315 or 49 CFR 383.51, under the law of another jurisdiction ~~or Mexico~~ that provides for disqualification of commercial drivers in a manner similar to 49 CFR 383.51, or under a determination by the federal motor carrier safety administration under the federal rules of practice for motor carrier safety contained in 49 CFR 386 that the person is no longer qualified to operate a vehicle under 49 CFR 391.

History: 1971 c. 164 s. 83; 1971 c. 280, 307; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a); 1977 c. 165, 272; 1979 c. 221; 1981 c. 20; 1983 a. 535; 1989 a. 12, 105, 336; 1991 a. 39, 64, 189, 277; 1995 a. 113; 1997 a. 84; 1999 a. 9, 32, 143; 2003 a. 33.

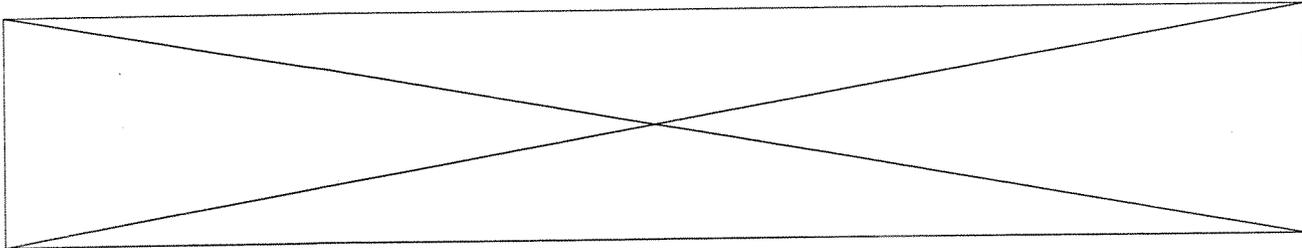
**SECTION 126.** 343.44 (2r) of the statutes is amended to read:

343.44 (2r) **PRIOR CONVICTIONS.** For purposes of determining prior convictions under this section, the 5-year period shall be measured from the dates of the violations that resulted in the convictions and each conviction under sub. (2) shall be counted. Convictions ~~of~~ under s. 343.44 (1)(a), (b), (d), 1997 stats., other than for operating a commercial motor vehicle while ordered out of service, and under the law of another jurisdiction for offenses therein which, if committed in this state, would have been violations of this section, shall be counted under this section as prior convictions.

History: 1971 c. 164 s. 83; 1971 c. 280, 307; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a); 1977 c. 165, 272; 1979 c. 221; 1981 c. 20; 1983 a. 535; 1989 a. 12, 105, 336; 1991 a. 39, 64, 189, 277; 1995 a. 113; 1997 a. 84; 1999 a. 9, 32, 143; 2003 a. 33.

**SECTION 127.** 343.44 (2s) of the statutes is amended to read:

**ENGROSSED BILL**



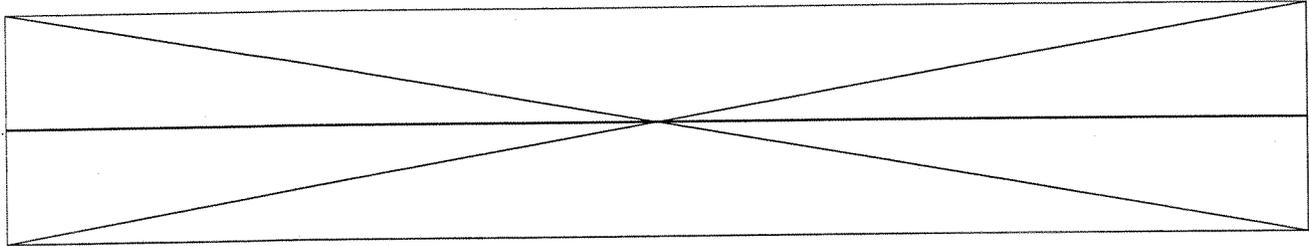
343.44 (2s) CITATIONS. Within 30 days after receipt by the department of a report from a law enforcement officer under s. 343.305 (7) or a court order under s. 343.28 of a violation committed by a person operating a commercial motor vehicle while subject to an out-of-service order under s. 343.305 (7) (b) or (9) (am), a traffic officer employed under s. 110.07 may prepare a uniform traffic citation under s. 345.11 for a violation of sub. (1) (c) or (d) and serve it on the person. The citation may be served anywhere in this state and shall be served by delivering a copy to the person personally or by leaving a copy at the person's usual place of abode with a person of discretion residing therein or by mailing a copy to the person's last-known residence address, including, if the person is not a resident, an address in another jurisdiction. The venue for prosecution may be the county where the alleged offense occurred or, if the person is a resident, in the person's county of residence.

History: 1971 c. 164 s. 83; 1971 c. 280, 307; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a); 1977 c. 165, 272; 1979 c. 221; 1981 c. 20; 1983 a. 535; 1989 a. 12, 105, 336; 1991 a. 39, 64, 189, 277; 1995 a. 113; 1997 a. 84; 1999 a. 9, 32, 143; 2003 a. 33.

**SECTION 128.** 343.44 (4r) of the statutes is amended to read: Should vehicle violations be included in this section(see s.343.44(1)(c))?

343.44 (4r) VIOLATION OF OUT-OF-SERVICE ORDER. In addition to other penalties for violation of this section, if a person has violated this section after he or she was ordered out-of-service under the law of this state or another

**ENGROSSED BILL**



jurisdiction or under federal law, the violation shall result in disqualification under s. 343.315 (2) (h) or (i).

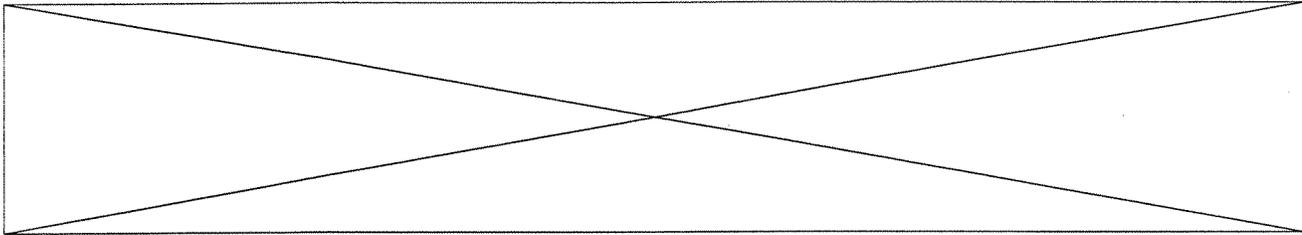
History: 1971 c. 164 s. 83; 1971 c. 280, 307; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a); 1977 c. 165, 272; 1979 c. 221; 1981 c. 20; 1983 a. 535; 1989 a. 12, 105, 336; 1991 a. 39, 64, 189, 277; 1995 a. 113; 1997 a. 84; 1999 a. 9, 32, 143; 2003 a. 33.

**SECTION 129.** 343.50 (8) (b) of the statutes is amended to read:

343.50 (8) (b) The department may not disclose any record or other information concerning or relating to an applicant or identification card holder to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency, driver licensing agency of another jurisdiction, the applicant or identification card holder or, if the applicant or identification card holder is under 18 years of age, his or her parent or guardian. Except for photographs disclosed to ~~a law enforcement agency~~ (because we are recommending a change to s.343.237(3)) under s. 343.237, persons entitled to receive any record or other information under this paragraph shall not disclose the record or other information to other persons or agencies. This paragraph does not prohibit the disclosure of a person's name or address, of the name or address of a person's employer or of financial information that relates to a person when requested under s. 49.22 (2m) by the department of workforce development or a county child support agency under s. 59.53 (5).

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.

**ENGROSSED BILL**



**SECTION 130.** 344.02 (3) of the statutes is amended to read:

344.02 (3) Upon completion of the hearing, the department shall make findings of fact, conclusions of law, and a decision, and shall, as provided in this chapter, either proceed to order suspension of the person's operating privilege, or registrations, or both, and may also order the impoundment of the person's motor vehicle, in accordance with s. 344.14, or upon good cause appearing therefor, shall terminate the proceedings.

History: 1971 c. 253; 1977 c. 29 ss. 1462, 1654 (7) (a), (c); 1977 c. 418; 1979 c. 258; 1981 c. 347 s. 80 (2); 1981 c. 363, 391; 1991 a. 269; 1993 a. 16; 1997 a. 27, 84.

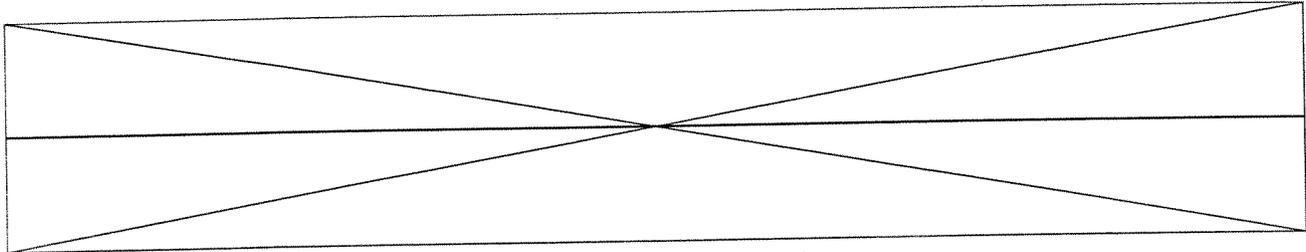
**SECTION 131.** 344.08 (1m) of the statutes is created to read:

344.08 (1m) Notwithstanding sub. (1), if this state is a party to an agreement under s. 343.02 (3) (a), the secretary may not suspend the operating privilege of a nonresident for an offense specified in sub. (1) if the offense is identified in the rule under s. 343.02 (3) (b).

**SECTION 132.** 344.13 (2) of the statutes is amended to read:

344.13 (2) The secretary shall determine the amount of security required to be deposited by each person on the basis of the accident reports or other information submitted. In addition to the accident reports required by law, the secretary may request from any of the persons, including passengers and

**ENGROSSED BILL**



pedestrians, involved in such accident such further information, sworn statements or other evidence relating to property damage, personal injury or death in motor vehicle accidents as deemed necessary to aid in determining the amount to be deposited as security under s. 344.14. ~~Failure~~ Subject to s. 344.14 (1r), failure of a person to comply with such request is grounds for suspending such person's operating privilege but no suspension shall be made on such grounds until one follow-up request has been made and at least 20 days have elapsed since the mailing of the first request.

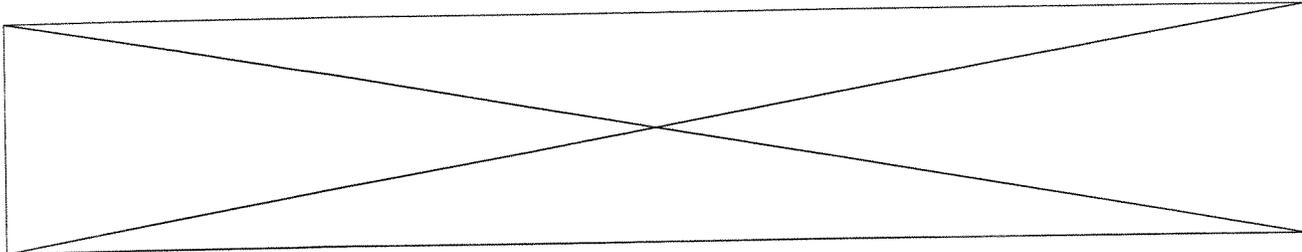
History: 1971 c. 253; 1977 c. 29 s. 1654 (7) (c); 1977 c. 273; 1991 a. 269; 1997 a. 84.

**SECTION 133.** 344.14 (1r) of the statutes is created to read:

344.14 (1r) Notwithstanding sub. (1), if this state is a party to an agreement under s. 343.02 (3) (a), the secretary may not suspend under sub. (1) or under s. 344.13 (2) the operating privilege of a nonresident for, respectively, an offense specified in sub. (1) or s. 344.13 (2) if the offense is identified in the rule under s. 343.02 (3) (b).

**SECTION 134.** 344.18 (1m) (a) of the statutes is amended to read: Note: This should include both the non-resident's operating and vehicle registration privileges. We don't require the filing of an SR22 for non-residents for either a DL or registration suspension.

**ENGROSSED BILL**



344.18 (1m) (a) Unless 3 years have elapsed since the date that a requirement under sub. (1) (a), (b), (c) or (d) has been met, the person whose operating privilege or registration was suspended or revoked under s. 344.14, ~~except, with respect to an operating privilege, a nonresident,~~ shall file with the department and maintain in effect proof of financial responsibility in the amount, form and manner specified in this chapter.

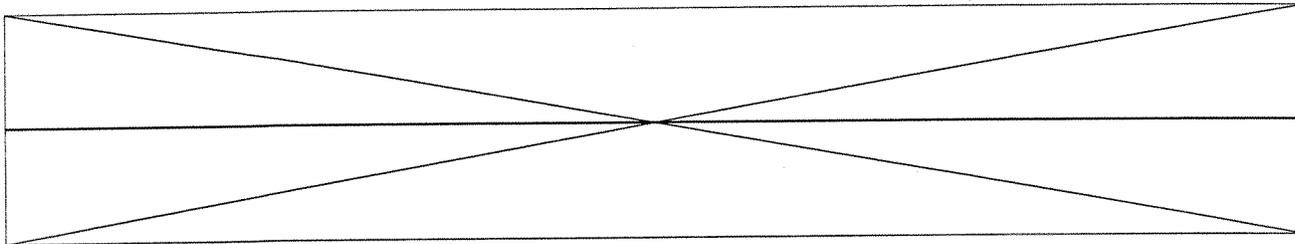
History: Sup. Ct. Order, 67 Wis. 2d 585, 766 (1975); 1975 c. 55, 199; 1977 c. 29 s. 1654 (7) (c); 1977 c. 273; 1979 c. 32, 258; 1981 c. 20; 1985 a. 202 ss. 29, 37; 1987 a. 3; 1991 a. 269, 315; 1997 a. 84.

**\*\*\*NOTE:** This change is necessitated by the repeal of s. 344.32 and corresponding changes to ss. 343.38 and 343.39.

**SECTION 135.** 344.19 (1) of the statutes is amended to read:

344.19 (1) If the operator or the owner of a motor vehicle involved in an accident within this state has no license or registration, whether because the operator or owner is a nonresident or because the operator or owner is a resident who has failed or neglected to obtain a license or registration in this state, the operator or owner shall not be allowed a license or registration until the operator or owner has complied with the requirements of this chapter to the same extent as would be necessary if, at the time of the accident, the operator or owner had held a license and registration in this state. Nothing in this subsection requires the department to maintain an operator's record with respect to a nonresident except as provided in s. 343.23.

**ENGROSSED BILL**



History: 1977 c. 29 ss. 1464, 1654 (7) (a), (c); 1991 a. 269, 316; 1997 a. 84.

**SECTION 136.** 344.19 (2) of the statutes is amended to read:

344.19 (2) If the operating privilege or registration of a nonresident is suspended under s. 344.14, the secretary shall transmit a certified copy of the record of such action as follows:

(b) With respect to the registration suspension, to the administrator of the division of motor vehicles or equivalent official of the state in which that person resides if the law of the state in which that person resides provides for similar action by the administrator or equivalent official of that state in the event that a resident of this state has a nonresident's ~~operating privilege or registration~~ in that state suspended or revoked for failure to comply with the safety responsibility law of that state.

History: 1977 c. 29 ss. 1464, 1654 (7) (a), (c); 1991 a. 269, 316; 1997 a. 84.

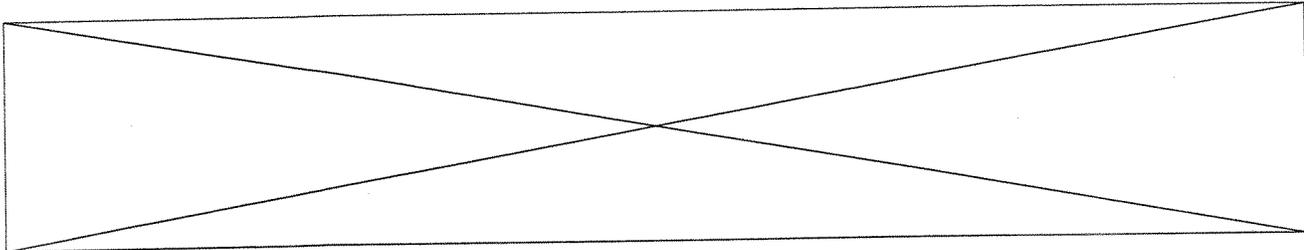
**SECTION 137.** 344.19 (2) (a) of the statutes is created to read:

344.19 (2) (a) With respect to the operating privilege suspension, as provided in s. 343.36 (3m).

**SECTION 138.** 344.19 (3) of the statutes is amended to read:

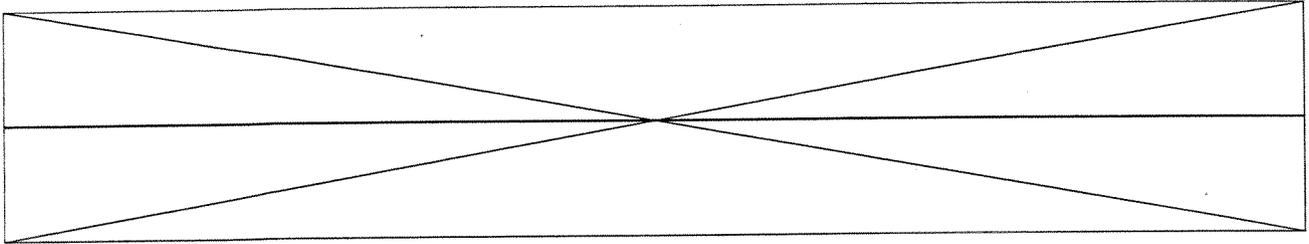
344.19 (3) Upon receipt of such certification from another state to the effect that the operating privilege or registration of a resident of this state has been suspended or revoked in such other state under a law providing for its suspension

**ENGROSSED BILL**



or revocation for failure to deposit security for payment of judgments arising out of a motor vehicle accident, under circumstances which would require the secretary to suspend a ~~nonresident's~~ person's operating privilege or registration had the accident occurred in this state, or, if this state is a party to an agreement under s. 343.02 (3) (a), upon notice of circumstances occurring in another jurisdiction substantially similar to those described in s. 344.14 if suspension of an operating privilege under circumstances substantially similar to those described in s. 344.14 is an offense identified in the rule under s. 343.02 (3) (b), the secretary shall suspend the operating privilege of such resident if he or she was the operator and all of his or her registrations if he or she was the owner of a motor vehicle involved in such accident. The department may accept a certification which is in the form of a combined notice of required security and suspension order, but shall not suspend a resident's operating privilege or registration on the basis of such order until at least 30 days have elapsed since the time for depositing security in the other state expired. A suspension or revocation of operating privilege under this section shall continue until such resident furnishes evidence of his or her compliance with the law of the other state relating to the deposit of security, pays the fee required under s. 343.21 (1) (j) and complies with the applicable provisions of s. 343.38. A suspension or

**ENGROSSED BILL**



revocation of registration under this section shall continue until such resident furnishes evidence of his or her compliance with the law of the other state relating to the deposit of security, pays the fee required under s. 341.36 (1m) and satisfies the requirements of sub. (3m).

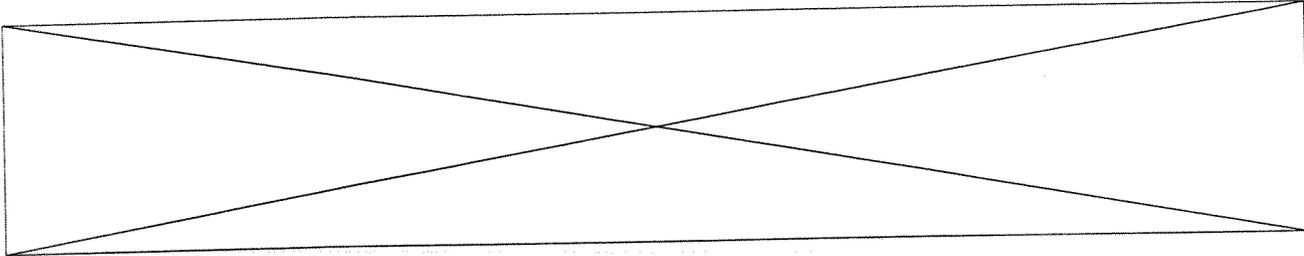
History: 1977 c. 29 ss. 1464, 1654 (7) (a), (c); 1991 a. 269, 316; 1997 a. 84.

**SECTION 139.** 344.24 of the statutes is amended to read: Note: these chapter 343 violations -- first OWI and non-compliance revocations -- do not require proof of financial responsibility.

**344.24 Applicability of sections relating to proof of financial responsibility for the future.** Sections 344.29 to 344.41 are applicable in all cases in which a person is required to deposit proof of financial responsibility for the future, including those cases in which a person is required to deposit proof of financial responsibility for the future under ss. 344.25 to 344.27, those cases in which the deposit of proof of financial responsibility for the future is a condition precedent to reinstatement of an operating privilege or registration suspended or revoked under s. 344.14, 344.18 (3) or 344.19 (3) and those cases in which the deposit of proof of financial responsibility for the future is a condition precedent to ~~issuance of an operator's license under s. 343.38 (4) or~~ reinstatement of an operating privilege revoked under ch. 343.

History: 1989 a. 72; 1991 a. 269; 1997 a. 84.

**ENGROSSED BILL**



**SECTION 140.** 344.25 (7) of the statutes is created to read:

344.25 (7) Notwithstanding sub. (5), if this state is a party to an agreement under s. 343.02 (3) (a), the secretary shall not suspend the operating privilege of a nonresident if operating privilege suspension under circumstances substantially similar to those described in this subchapter is identified in the rule under s. 343.02 (3) (b).

**SECTION 141.** 344.27 (3) of the statutes is amended to read:

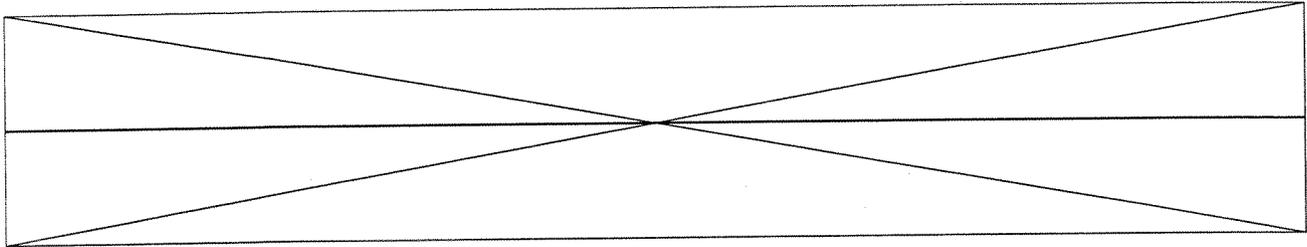
344.27 (3) If the judgment debtor fails to pay any installment as specified by such order, the secretary, upon notice of such default, shall immediately suspend the operating privilege, if permitted under this subchapter, and registrations of the judgment debtor until such judgment is satisfied as provided in s. 344.26.

History: 1977 c. 29 s. 1654 (7) (c); 1997 a. 84; 1999 a. 80, 186.

**SECTION 142.** 344.29 of the statutes is amended to read: Note: See note under Section 139.

**344.29 Proof of financial responsibility for the future required.**  
Proof of financial responsibility for the future shall be furnished by any person required to give such proof under ss. 344.25 to 344.27, those cases in which the deposit of proof of financial responsibility for the future is a condition precedent to reinstatement of an operating privilege or registration suspended or revoked

**ENGROSSED BILL**



under s. 344.14, 344.18 (3) or 344.19 (3) and in those cases in which the deposit of proof of financial responsibility for the future is a condition precedent to issuance of an operator's license under s. ~~343.38 (4)~~ or reinstatement of an operating privilege revoked under ch. 343.

History: 1973 c. 90; 1989 a. 72; 1991 a. 269; 1997 a. 84.

**SECTION 143.** 344.30 (1) of the statutes is amended to read:

344.30 (1) Certification of insurance as provided in s. 344.31 ~~or 344.32~~; or

History: 1973 c. 90; 1981 c. 390; 1987 a. 27; 1991 a. 316.

**SECTION 144.** 344.32 of the statutes is repealed.

**SECTION 145.** 344.33 (1) of the statutes is amended to read:

344.33 (1) CERTIFICATION. In this chapter, "motor vehicle liability policy" means a motor vehicle policy of liability insurance, certified as provided in s. 344.31 ~~or 344.32~~ as proof of financial responsibility for the future, and issued; ~~except as otherwise provided in s. 344.32~~, by an insurer authorized to do an automobile liability business in this state to or for the benefit of the person named in the policy as the insured.

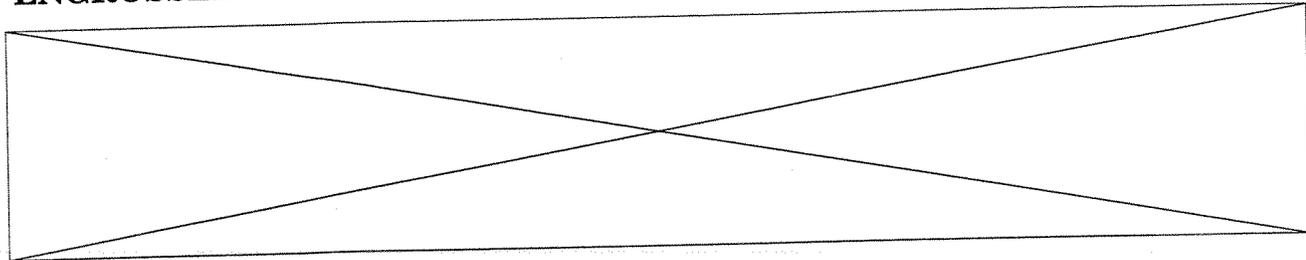
History: 1973 c. 90, 243; 1975 c. 147 s. 54; 1977 c. 293, 1979 c. 102 ss. 43, 236 (3), (4); 1981 c. 284; 1999 a. 80.

**SECTION 146.** 344.34 of the statutes is amended to read:

**344.34 Notice of cancellation or termination of certified policy.**

When an insurer has certified a motor vehicle liability policy under s. 344.31, a

**ENGROSSED BILL**



~~policy under s. 344.32~~ or a bond under s. 344.36, the insurance so certified shall not be canceled or terminated until at least 10 days after a notice of cancellation or termination of the insurance so certified has been filed in the office of the secretary. No insurance so certified may be canceled or terminated by the insurer prior to the expiration of 90 days from the effective date of the certification on the grounds of failure to pay a premium when due. Such a certified policy or bond subsequently procured shall, on the effective date of its certification, terminate the insurance previously certified. Any certification or recertification filed by the same insurer following cancellation shall be accompanied by a fee of \$3 payable by the insurer.

History: 1973 c. 90; 1977 c. 29 s. 1654 (7) (c); 1979 c. 102 s. 236 (3); 1987 a. 27; 1991 a. 269; 1993 a. 213.

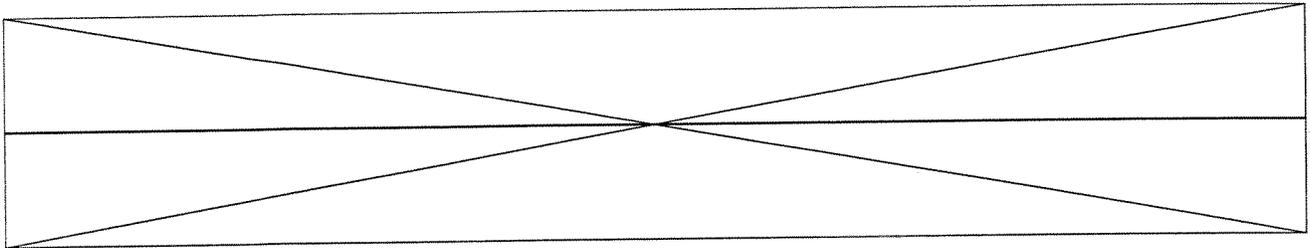
**SECTION 147.** 344.40 (2) (a) of the statutes is amended to read: Note: Why this change?

344.40 (2) (a) Except as provided in par. (b), whenever any proof of financial responsibility filed under this chapter no longer fulfills the purposes for which required, the secretary shall require other proof meeting the requirements of this chapter and shall suspend or revoke the operating privilege, if permitted under this chapter, pending the filing of such other proof.

History: 1973 c. 90; 1977 c. 29 s. 1654 (7) (c); 1989 a. 72; 1991 a. 269; 1997 a. 84.

**SECTION 148.** 344.42 of the statutes is amended to read:

**ENGROSSED BILL**



**344.42 Submission of certifications and recertifications by insurers.**

If the sum of certifications and recertifications under ss. 344.31, ~~344.32~~ and 344.34 that are submitted by an insurer to the department in any year exceeds 1,000, the insurer shall pay to the department a transaction fee of \$1.50 per certification or recertification that is not transmitted electronically to the department. The department shall promulgate rules establishing procedures for the collection of transaction fees under this section.

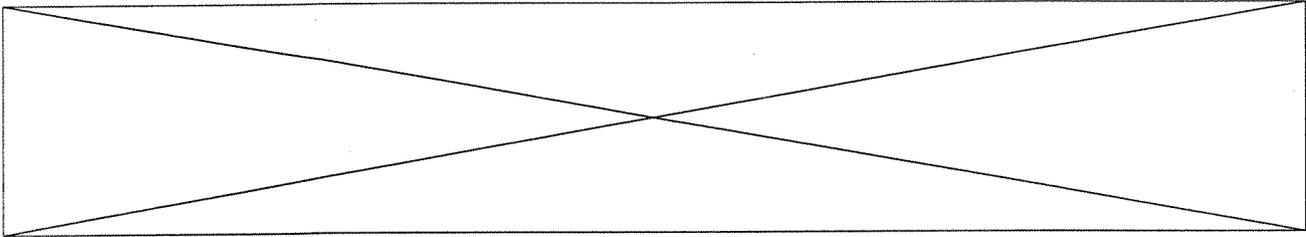
History: 1997 a. 27.

**SECTION 149.** 344.45 (1) of the statutes is amended to read: Note: See discussion of surrender of license in note for Section 39.

344.45 (1) Whenever a person's operating privilege or registration is suspended under this chapter, the department may order the person to surrender to the department his or her operator's license if issued under ch. 343 and the registration plates of the vehicle or vehicles for which registration was suspended. If the person fails immediately to return the operator's license or registration plates to the department, the department may direct a traffic officer to take possession thereof and return them to the department.

History: 1971 c. 278; 1977 c. 29 ss. 1465, 1654 (7) (a), (c); 1977 c. 43, 203; 1985 a. 29; 1989 a. 72; 1997 a. 84.

**ENGROSSED BILL**



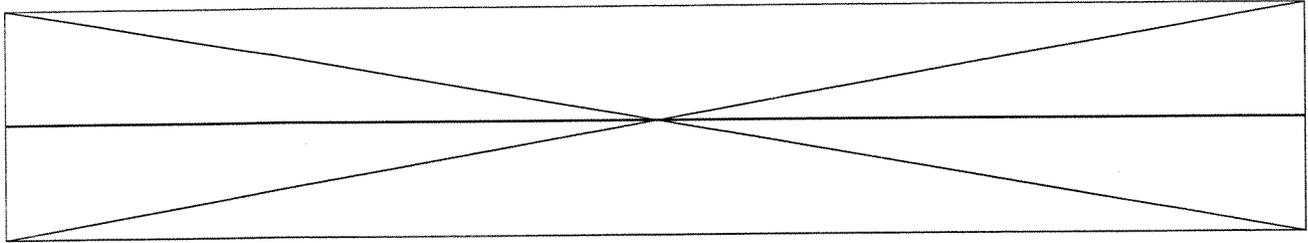
**SECTION 150.** 345.11 (2) of the statutes is amended to read: Note: The UTC already include these. The UTC is published as part of administrative rule. This law change is not needed.

345.11 (2) The uniform traffic citation shall be on a form or in an automated format recommended by the council on uniformity of traffic citations and complaints and shall consist of a court report, a report of conviction for the department, a police record and report of action on the case and a traffic citation. The form or automated format shall provide for the name, residence address, birth date, operator's license number and jurisdiction of licensure of the alleged violator if known, the license number of the vehicle, the offense alleged, the time and place of the offense, the section of the statute or ordinance violated, the amount of deposit or bail for the offense, a designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so, and any other information as may be pertinent to the offense.

History: 1971 c. 164 s. 81; 1971 c. 277; 1973 c. 218; 1975 c. 41; 1977 c. 29 ss. 1468, 1654 (7) (a), (c); 1977 c. 273; 1979 c. 34, 257; 1985 a. 29, 36, 145, 309; 1989 a. 31, 105, 170, 335; 1993 a. 436, 437; 1995 a. 227; 1997 a. 120; 1999 a. 31, 140; 2001 a. 27; 2003 a. 33.

**SECTION 151.** 345.23 (2) (c) of the statutes is amended to read: Note for Sections 151 - 153: May not be the same issue as the surrender/take possession issue in other sections. May be fine to "deposit." State Patrol indicates that accepting the deposit of a person's license is a useful option in lieu of posting

**ENGROSSED BILL**



bond. Can we leave the deposit of license as is and ask for DLA waiver while we are verifying it's usefulness with police officers?

345.23 (2) (c) Deposits the person's valid ~~Wisconsin~~ operator's license with the officer. If the license is deposited with the officer, the officer shall issue to the licensee a receipt which shall be valid as a driver's license through the date specified on the receipt, which shall be the same as the court appearance date, and the officer shall, at the earliest possible time prior to the court appearance date, deposit the license with the court.

History: 1971 c. 278; 1973 c. 218; 1977 c. 305, 418; 1983 a. 189 s. 329 (32); 1989 a. 105, 170, 359.

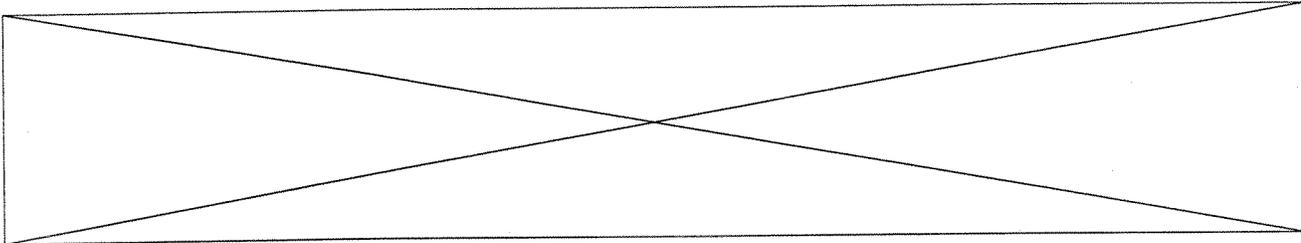
**SECTION 152.** 345.28 (5) (b) 1. of the statutes is amended to read:

345.28 (5) (b) 1. If a person fails to respond to the notices under par. (a) within the time specified in the notice, a warrant that substantially complies with the mandatory provisions under s. 968.04 (3) (a) may be issued for the person, except that the warrant shall direct the officer to accept the person's deposit of money or his or her valid ~~Wisconsin~~ operator's license, as provided under subd. 2. a., in lieu of serving the warrant and arresting the person.

History: 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

**SECTION 153.** 345.28 (5) (b) 2. a. of the statutes is amended to read:

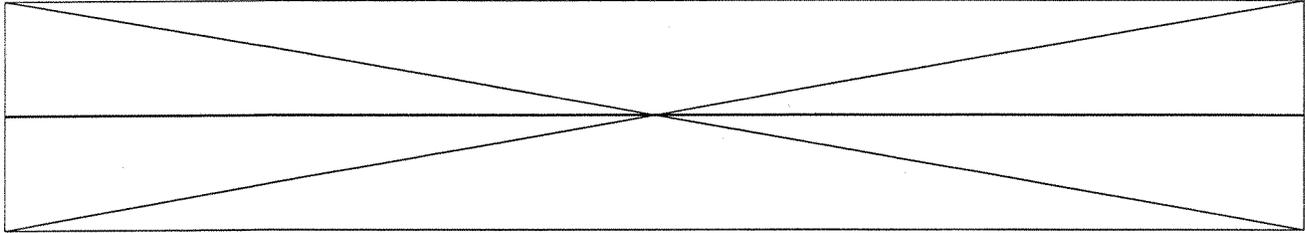
**ENGROSSED BILL**



345.28 (5) (b) 2. a. The officer shall accept a deposit of money or a deposit of the person's valid ~~Wisconsin~~ operator's license in lieu of serving the warrant and arresting the person. If the license is deposited with the officer, the officer shall issue to the licensee a receipt, on a form provided by the department, which is valid as an operator's license through a date specified on the receipt, not to exceed 30 days from the date of contact, which shall be the same as the court appearance date and the officer shall at the earliest possible time prior to the court appearance date deposit the license with the court. If a deposit of money is made, s. 345.26 (1) (a) and (2) to (5) applies. The officer shall notify the person who deposits money or his or her license, in writing, of the specific actions which the authority and the courts are authorized to take under this section if the person fails to appear in court at the time specified by the officer, not to exceed 30 days from the date of contact, or at any subsequent court appearance for the nonmoving traffic violation citation. If the person makes a deposit of money or deposits his or her valid ~~Wisconsin~~ operator's license, the officer shall return the warrant to the court or judge who issued the warrant and the court or judge shall vacate the warrant.

**History:** 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

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**SECTION 154.** 345.47 (1) (intro.) of the statutes is amended to read: Note: Is this change needed if courts retain current authority under s. 343.30?

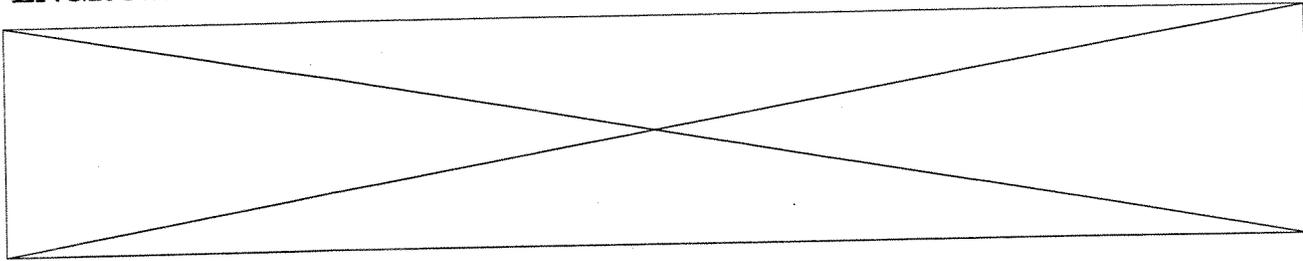
345.47 (1) (intro.) If the defendant is found guilty, the court may enter judgment against the defendant for a monetary amount not to exceed the maximum forfeiture provided for the violation, plus costs, fees, and surcharges imposed under ch. 814, and, in addition, may suspend or revoke his or her operating privilege under as provided in s. 343.30. If the judgment is not paid, the court shall order:

History: 1971 c. 278; 1973 c. 218; 1977 c. 29 ss. 1477 to 1482, 1654 (7) (c); 1979 c. 34; 1981 c. 165; 1987 a. 27, 389; 1989 a. 31, 107; 1991 a. 34, 39, 189; 1993 a. 16; 1995 a. 269; 1997 a. 27, 84, 135, 237, 252; 1999 a. 9, 32, 185; 2001 a. 16; 2003 a. 139.

**SECTION 155.** 345.47 (1) (b) of the statutes is amended to read: Is this section needed? See Section 38 comments.

345.47 (1) (b) In lieu of imprisonment and in addition to any other suspension or revocation, that the defendant's operating privilege be suspended. The operating privilege shall be suspended for 30 days or until the person pays the forfeiture, plus costs, fees, and surcharges imposed under ch. 814, but not to exceed 2 years. Suspension under this paragraph shall not affect the power of the court to suspend or revoke under s. 343.30 or the power of the secretary to suspend or revoke the operating privilege. This paragraph does not apply if the judgment was entered solely for violation of an ordinance unrelated to the

**ENGROSSED BILL**



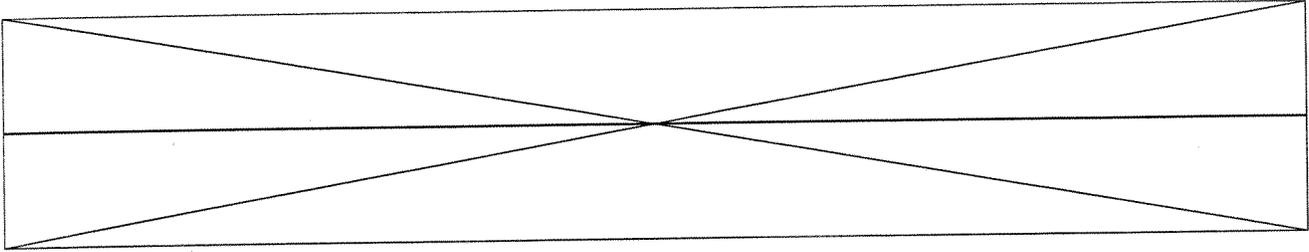
violator's operation of a motor vehicle or if this state is a party to an agreement under s. 343.02 (3) (a), the defendant is a nonresident, and operating privilege suspension under circumstances substantially similar to those described under this paragraph is identified in the rule under s. 343.02 (3) (b).

History: 1971 c. 278; 1973 c. 218; 1977 c. 29 ss. 1477 to 1482, 1654 (7) (c); 1979 c. 34; 1981 c. 165; 1987 a. 27, 389; 1989 a. 31, 107; 1991 a. 34, 39, 189; 1993 a. 16; 1995 a. 269; 1997 a. 27, 84, 135, 237, 252; 1999 a. 9, 32, 185; 2001 a. 16; 2003 a. 139.

**SECTION 156.** 345.47 (1) (c) of the statutes is amended to read: Note: See Note on Section 39, regarding surrender of license.

345.47 (1) (c) If a court or judge suspends an operating privilege under this section, the court or judge shall immediately take possession of the suspended license if issued under ch. 343 and ~~shall~~ forward it to the department together with the notice of suspension, which shall clearly state that the suspension was for failure to pay a forfeiture, plus costs, fees, and surcharges imposed under ch. 814. The notice of suspension and the suspended license, ~~if it is available~~ surrendered, shall be forwarded to the department within 48 hours after the order of suspension. If the forfeiture, plus costs, fees, and surcharges imposed under ch. 814, are paid during a period of suspension, the court or judge shall immediately notify the department. Upon receipt of the notice and payment of the reinstatement fee under s. 343.21 (1) (j), the department shall return the surrendered license.

**ENGROSSED BILL**



**History:** 1971 c. 278; 1973 c. 218; 1977 c. 29 ss. 1477 to 1482, 1654 (7) (c); 1979 c. 34; 1981 c. 165; 1987 a. 27, 389; 1989 a. 31, 107; 1991 a. 34, 39, 189; 1993 a. 16; 1995 a. 269; 1997 a. 27, 84, 135, 237, 252; 1999 a. 9, 32, 185; 2001 a. 16; 2003 a. 139.

**SECTION 157.** 345.48 (2) of the statutes is amended to read: Note: See Note on Section 39, regarding surrender of license.

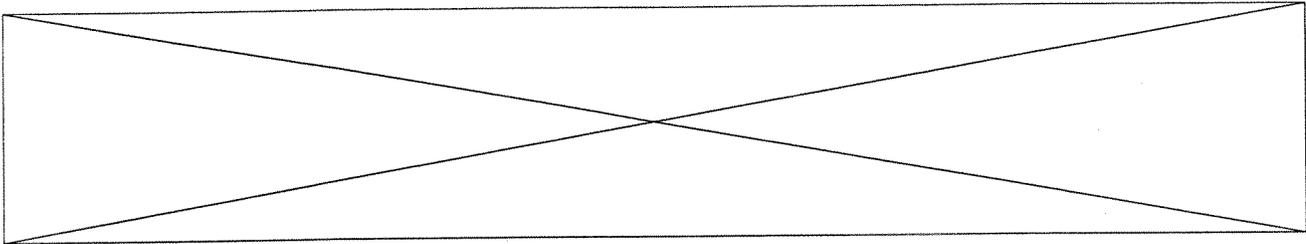
345.48 (2) If the defendant is found guilty of a traffic violation for which revocation of his or her operating privilege is mandatory under s. 343.31, or for which the court revokes or suspends his or her operating privilege under s. 343.30, the court shall immediately take possession of the suspended or revoked license if issued under ch. 343. The revocation or suspension is effective immediately. The court ordered suspension or revocation shall be included as part of the report of conviction under sub. (1m).

**History:** 1971 c. 278; 1977 c. 29 s. 1654 (7) (a); 1983 a. 304; 1985 a. 135 s. 85; Sup. Ct. Order, 146 Wis. 2d xiii (1975); 1991 a. 39; 1993 a. 16.

**SECTION 158.** 346.63 (2m) of the statutes is amended to read:

346.63 (2m) If a person has not attained the legal drinking age, as defined in s. 125.02 (8m), the person may not drive or operate a motor vehicle while he or she has an alcohol concentration of more than 0.0 but not more than 0.08. One penalty for violation of this subsection is suspension of a person's operating privilege under as provided in s. 343.30 (1p) and (5) (b). The person is eligible for an occupational license under s. 343.10 at any time. If a person arrested for a

**ENGROSSED BILL**



violation of this subsection refuses to take a test under s. 343.305, the refusal is a separate violation and the person is subject to revocation of the person's operating privilege under as provided in s. 343.305 (10) (em).

History: 1971 c. 40 s. 93; 1971 c. 219; 1977 c. 193; 1981 c. 20, 184; 1983 a. 74, 459, 521; 1985 a. 32, 337; 1987 a. 3, 27; 1989 a. 105, 275; 1991 a. 277; 1995 a. 436, 448; 1997 a. 27, 252; 1999 a. 85; 2003 a. 30, 97.

**SECTION 159.** 346.65 (2c) of the statutes is amended to read:

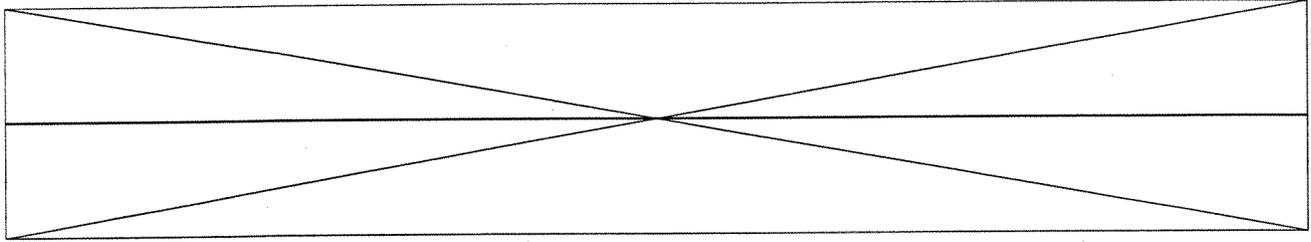
**346.65 (2c)** In sub. (2) (b) to (e), the time period shall be measured from the dates of the refusals or violations that resulted in the revocation or convictions. If a person has a suspension, revocation or conviction for any offense under a local ordinance or a state statute of another state jurisdiction that would be counted under s. 343.307 (1), that suspension, revocation or conviction shall count as a prior suspension, revocation or conviction under sub. (2) (b) to (e).

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326.

**SECTION 160.** 346.65 (2e) of the statutes is amended to read: Note: Why change "the" to "any?"

**346.65 (2e)** If the court determines that a person does not have the ability to pay the costs and fine or forfeiture imposed under sub. (2) (a), (b), (c), (d), (e), (f) or (g), the court may reduce the costs, fine and forfeiture imposed and order the person to pay, toward the cost of ~~the~~ any assessment and driver safety plan

**ENGROSSED BILL**



imposed under s. 343.30 (1q) (c), the difference between the amount of the reduced costs and fine or forfeiture and the amount of costs and fine or forfeiture imposed under sub. (2) (a), (b), (c), (d), (e), (f) or (g).

**History:** 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326.

**SECTION 161.** 346.65 (2u) (c) of the statutes is amended to read:

346.65 (2u) (c) If a person arrested for a violation of s. 346.63 (7) refuses to take a test under s. 343.305, the refusal is a separate violation and the person is subject to revocation of the person's operating privilege ~~under~~ as provided in s. 343.305 (10) (em).

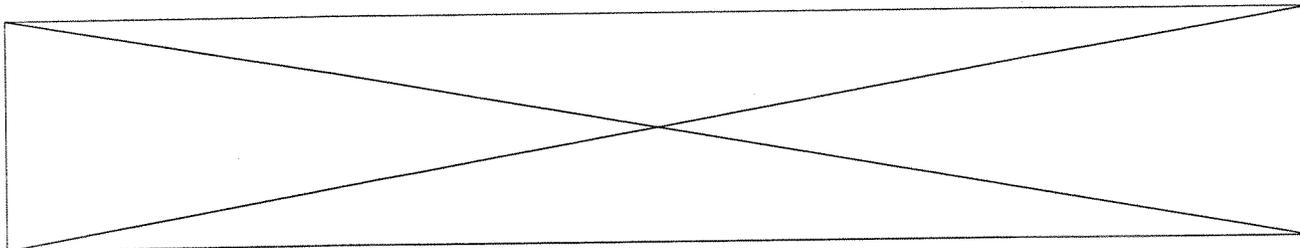
**History:** 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326.

**SECTION 162.** 346.65 (6) (a) 1. of the statutes is amended to read: Note:

Same as previous comments on courts. Add new subsection that revises department authority in s.346.65(6)(a)3 to record seizures for WI titled/registered vehicles only.

346.65 (6) (a) 1. The court may order a law enforcement officer to seize the motor vehicle used in the violation or improper refusal and owned by the person whose operating privilege is revoked under s. 343.305 (10) or, if the person is a

**ENGROSSED BILL**

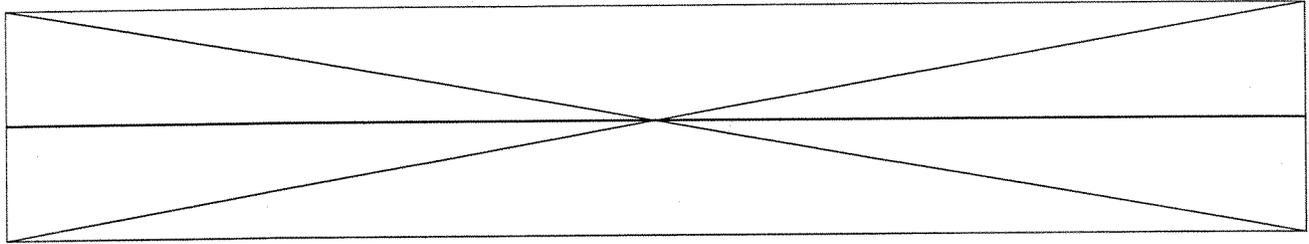


nonresident, whose operating privilege could be revoked under s. 343.305 (10) if the person were a resident, or who committed a violation of s. 346.63 (1) (a), (am), or (b) or (2) (a) 1., 2., or 3., 940.09 (1) (a), (am), (b), (c), (cm), or (d), or 940.25 (1) (a), (am), (b), (c), (cm), or (d) if the person whose operating privilege is revoked under s. 343.305 (10) or, if the person is a nonresident, whose operating privilege could be revoked under s. 343.305 (10) if the person were a resident, or who is convicted of the violation has 2 or more prior suspensions, revocations, or convictions, counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus other convictions, suspensions, or revocations counted under s. 343.307 (1). The court may not order a motor vehicle seized if the court enters an order under s. 343.301 to immobilize the motor vehicle or equip the motor vehicle with an ignition interlock device or if seizure would result in undue hardship or extreme inconvenience or would endanger the health and safety of a person.

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326.

\*\*\*\*NOTE: Under current law, the seizure of vehicles under s. 346.65 (6) is not limited to vehicles owned or operated by residents or to vehicles registered in this state. Because of the changes to s. 343.305 (10), I have made changes to s. 346.65 (6) (a) 1. so the scope of s. 346.65 (6) (a) 1. will not be narrowed. However, the remainder of s. 345.65 (6) is worded in a way that suggests that only vehicles registered in Wisconsin should be subject to seizure. Do you want s. 346.65 (6) (a) 1. to apply only with respect to vehicles registered in Wisconsin? Do you want s. 346.65 (6) (a) 2m.

**ENGROSSED BILL**



and 3. amended to clarify that the subsection applies also to vehicles not registered in Wisconsin that are used to commit a violation in Wisconsin?

**SECTION 163.** 346.93 (2f) of the statutes is amended to read:

346.93 (2f) Except as provided in ~~sub.~~ subs. (2g) and (2m), any person violating this section may have his or her operating privilege suspended under s. 343.30 (6) (b) 1.

History: 1971 c. 213 s. 5; 1983 a. 74; 1985 a. 28; 1989 a. 105; 1999 a. 109.

**SECTION 164.** 346.93 (2g) (intro.) of the statutes is amended to read:

346.93 (2g) (intro.) ~~Any~~ Except as provided in sub. (2m), any person violating this section may be required to forfeit not less than \$20 nor more than \$400 and shall have his or her operating privilege:

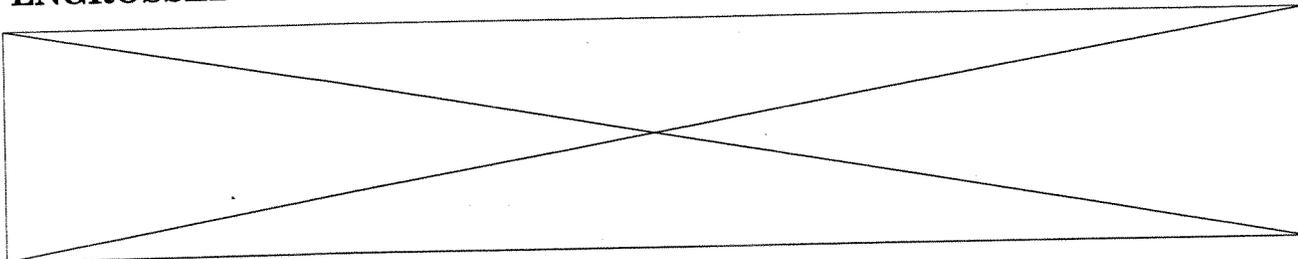
History: 1971 c. 213 s. 5; 1983 a. 74; 1985 a. 28; 1989 a. 105; 1999 a. 109.

**SECTION 165.** 346.93 (2m) of the statutes is created to read: Not needed.  
See Section 38 comments.

346.93 (2m) If this state is a party to an agreement under s. 343.02 (3) (a), a court may not suspend the operating privilege under this section and s. 343.30 (6) of a nonresident for an offense specified in sub. (1) if the offense is identified in the rule under s. 343.02 (3) (b).

**SECTION 166.** 350.11 (3) (d) of the statutes is amended to read:

**ENGROSSED BILL**



Note: May have to change reference to s. 343.30 (1q)(c) 1. See notes under sections 48 & 49.

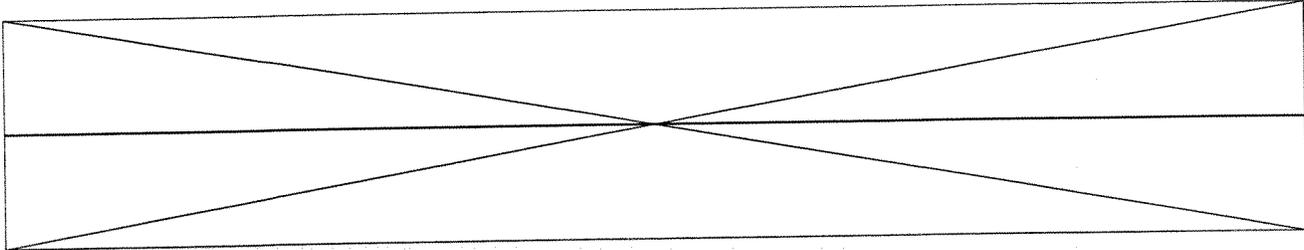
350.11 (3) (d) *Alcohol, controlled substances or controlled substance analogs; assessment.* In addition to any other penalty or order, a person who violates s. 350.101 (1) or (2) or 350.104 (5) or who violates s. 940.09 or 940.25 if the violation involves the operation of a snowmobile, shall be ordered by the court to submit to and comply with an assessment by an approved public treatment facility for an examination of the person's use of alcohol, controlled substances or controlled substance analogs. The assessment order shall comply with s. 343.30 (1q) (c) 1. a. to e. Intentional failure to comply with an assessment ordered under this paragraph constitutes contempt of court, punishable under ch. 785.

History: 1971 c. 277; 1973 c. 218; 1975 c. 365; 1987 a. 399; 1991 a. 269; 1993 a. 119, 436; 1995 a. 417, 448; 1997 a. 27, 283; 2001 a. 109; 2003 a. 97.

**SECTION 167.** 351.025 (3) of the statutes is created to read: Note: See discussion of point suspensions under Section 106 regarding new licensees or residents. Similar language is needed for HTOs.

351.025 (3) Notwithstanding sub. (1), ~~it~~if this state is a party to an agreement under s. 343.02 (3) (a), the secretary may not revoke the operating privilege of a nonresident under sub. (1) if any offense necessary for a holding that

**ENGROSSED BILL**



the nonresident is a habitual traffic offender or repeat habitual traffic offender is an offense identified in the rule under s. 343.02 (3) (b).

**SECTION 168.** 631.37 (4) (e) of the statutes is amended to read:

631.37 (4) (e) *Motor vehicle liability policy.* Section 344.34 applies to motor vehicle liability policies certified under s. 344.31 and to policies certified under s. 344.32.

History: 1979 c. 102 ss. 165, 166; 1985 a. 83; 1989 a. 187; 1991 a. 315; 1993 a. 363; 2003 a. 302.

**Note: Sections 169 - 189 and sections 191 - 196 are not needed. These deal with court authority - addressed in comments on Section 38.**

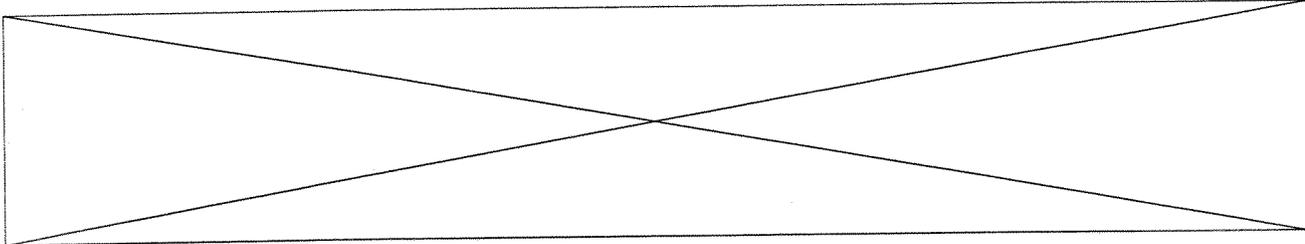
**SECTION 169.** 767.303 (1m) of the statutes is created to read:

767.303 (1m) Notwithstanding sub. (1), if this state is a party to an agreement under s. 343.02 (3) (a), the court may not suspend the operating privilege of a person who is not a resident of this state if operating privilege suspension for failure to comply under circumstances substantially similar to those described in sub. (1) is identified in the rule under s. 343.03 (2) (b).

**SECTION 170.** 800.09 (1) (c) of the statutes is amended to read:

800.09 (1) (c) The court may suspend the defendant's operating privilege, as defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments and costs are paid, if the defendant has not done so within 60 days after the date

**ENGROSSED BILL**



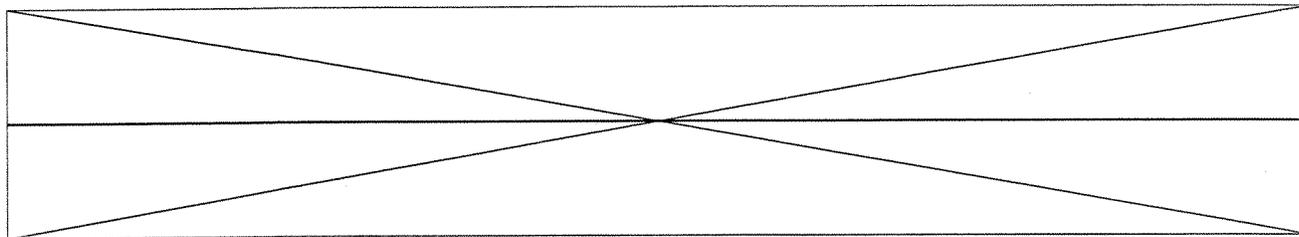
the restitution or payments or both are to be made under par. (a) and has not notified the court that he or she is unable to comply with the judgment, as provided under s. 800.095 (4) (a), except that the suspension period may not exceed 2 years. The court shall take possession of the suspended license ~~and shall~~ if issued under ch. 343, and, if surrendered, forward the license, along with a notice of the suspension clearly stating that the suspension is for failure to comply with a judgment of the court, to the department of transportation. This paragraph does not apply if the forfeiture is assessed for violation of an ordinance that is unrelated to the violator's operation of a motor vehicle or if this state is a party to an agreement under s. 343.02 (3) (a), the defendant is not a resident of this state, and operating privilege suspension for failure to comply under circumstances substantially similar to those described in this subsection is identified in the rule under s. 343.02 (3) (b).

History: 1977 c. 305; 1979 c. 32 s. 68; Stats. 1979 s. 800.09; 1981 c. 317; 1985 a. 179; 1987 a. 27, 389; 1987 a. 399 s. 494u; 1989 a. 107; 1991 a. 39, 40, 189; 1993 a. 16; 1997 a. 27, 84; 1999 a. 9, 185; 2001 a. 16; 2003 a. 139.

**SECTION 171.** 800.095 (4) (b) 4. of the statutes is amended to read:

800.095 (4) (b) 4. That the defendant's operating privilege, as defined in s. 340.01 (40), be suspended until the judgment is complied with, except that the suspension period may not exceed 2 years. This subdivision does not apply if the

**ENGROSSED BILL**



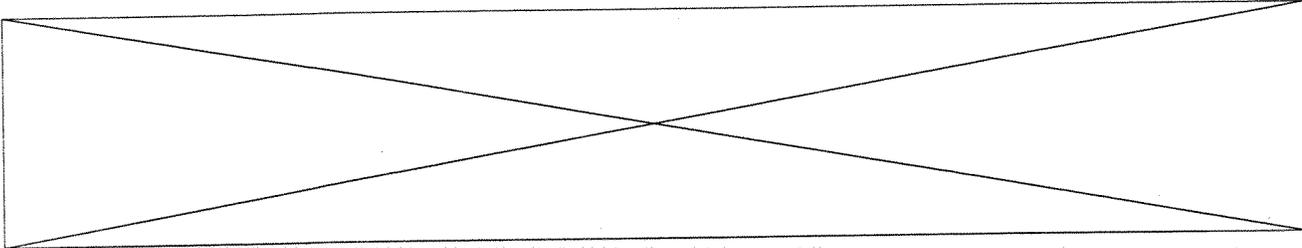
forfeiture is assessed for violation of an ordinance that is unrelated to the violator's operation of a motor vehicle or if this state is a party to an agreement under s. 343.02 (3) (a), the defendant is not a resident of this state, and operating privilege suspension for failure to comply under circumstances substantially similar to those described in this paragraph is identified in the rule under s. 343.02 (3) (b).

**History:** 1987 a. 389; 1987 a. 399 s. 494u; 1989 a. 31; 1991 a. 40; 1995 a. 27; 1997 a. 84, 250; 1999 a. 9 ss. 3083m, 3263; 1999 a. 185.

**SECTION 172.** 938.17 (2) (d) of the statutes is renumbered 938.17 (2) (d) 1. and amended to read:

938.17 (2) (d) 1. If a municipal court finds that the juvenile violated a municipal ordinance other than an ordinance enacted under s. 118.163 or an ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2) or 961.575 (2), the court shall enter any of the dispositional orders permitted under s. 938.343 that are authorized under par. (cm). If a juvenile fails to pay the forfeiture imposed by the municipal court, the court may not impose a jail sentence but may suspend any license issued under ch. 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not more than 2 years. If a

**ENGROSSED BILL**



court suspends a license or privilege under this section, the court shall immediately take possession of the applicable license ~~and~~ , except an operator's license issued by another jurisdiction, and, as applicable, forward it to the department that issued the license, together with the notice of suspension clearly stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the period of suspension, the court shall immediately notify the department, which shall thereupon return the license to the person.

History: 1995 a. 77, 352, 448; 1997 a. 205, 239, 258; 1999 a. 9; 2001 a. 16.

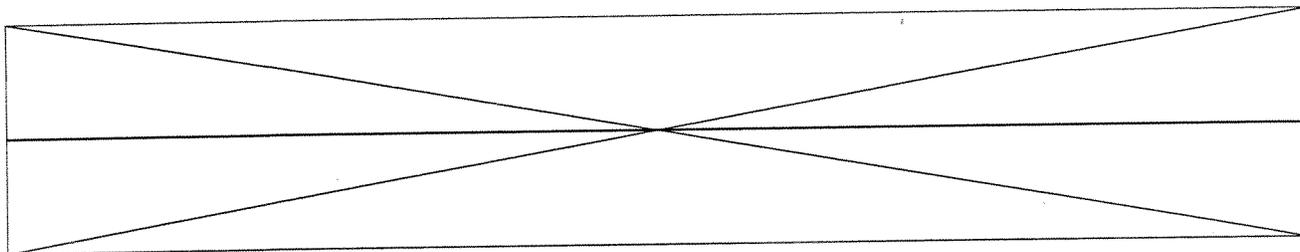
**SECTION 173.** 938.17 (2) (d) 2. of the statutes is created to read:

938.17 (2) (d) 2. Notwithstanding subd. 1., if this state is a party to an agreement under s. 343.02 (3) (a), the court may not suspend the operating privilege of a juvenile who is not a resident of this state if operating privilege suspension for failure to comply under circumstances substantially similar to those described in subd. 1. is identified in the rule under s. 343.02 (3) (b).

**SECTION 174.** 938.34 (8) of the statutes is renumbered 938.34 (8) (a) and amended to read:

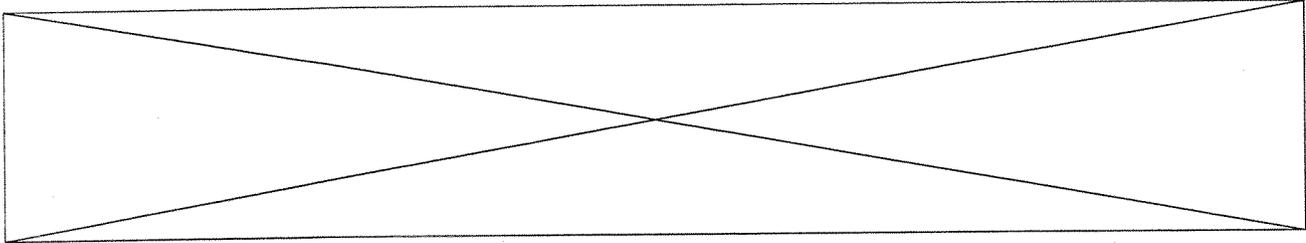
938.34 (8) (a) FORFEITURE. Impose a forfeiture based upon a determination that this disposition is in the best interest of the juvenile and in aid of

**ENGROSSED BILL**



rehabilitation. The maximum forfeiture that the court may impose under this subsection for a violation by a juvenile is the maximum amount of the fine that may be imposed on an adult for committing that violation or, if the violation is applicable only to a person under 18 years of age, \$100. Any such order shall include a finding that the juvenile alone is financially able to pay the forfeiture and shall allow up to 12 months for payment. If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture and order other alternatives under this section, in accordance with the conditions specified in this chapter; or the court may suspend any license issued under ch. 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not more than 2 years. If the court suspends any license under this subsection, the clerk of the court shall immediately take possession of the suspended license and, except an operator's license issued by another jurisdiction, and, as applicable, forward it to the department which issued the license, together with a notice of suspension clearly stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the period of suspension, the suspension shall be reduced to the time period which has already elapsed and the court shall immediately notify the department which shall then return the license to the juvenile. Any recovery under this subsection shall be

**ENGROSSED BILL**



reduced by the amount recovered as a forfeiture for the same act under s. 938.45  
(1r) (b).

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; 1999 a. 9, 32, 57, 89, 185; 2001 a. 16, 59, 69, 109; 2003 a. 33, 50, 200, 321.

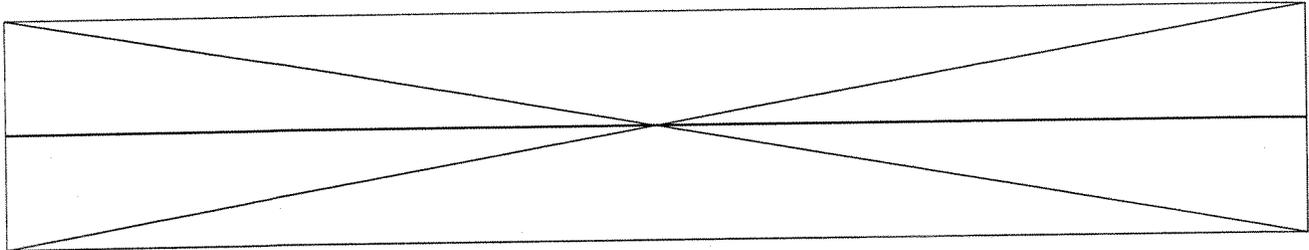
**SECTION 175.** 938.34 (8) (b) of the statutes is created to read:

938.34 (8) (b) Notwithstanding par. (a), if this state is a party to an agreement under s. 343.02 (3) (a), the court may not suspend the operating privilege of a juvenile who is not a resident of this state if operating privilege suspension for failure to comply under circumstances substantially similar to those described in par. (a) is identified in the rule under s. 343.02 (3) (b).

**SECTION 176.** 938.34 (8d) (d) of the statutes is renumbered 938.34 (8d) (d) 1. and amended to read:

938.34 (8d) (d) 1. If the juvenile fails to pay the surcharge under par. (a), the court may vacate the surcharge and order other alternatives under this section, in accordance with the conditions specified in this chapter; or the court may suspend any license issued under ch. 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years. If the court suspends any license under this subsection, the clerk of the court shall immediately take

**ENGROSSED BILL**



possession of the suspended license ~~and, except an operator's license issued by another jurisdiction, and, as applicable,~~ forward it to the department which issued the license, together with a notice of suspension clearly stating that the suspension is for failure to pay a surcharge imposed by the court. If the surcharge is paid during the period of suspension, the suspension shall be reduced to the time period which has already elapsed and the court shall immediately notify the department which shall then return the license to the juvenile.

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; 1999 a. 9, 32, 57, 89, 185; 2001 a. 16, 59, 69, 109; 2003 a. 33, 50, 200, 321.

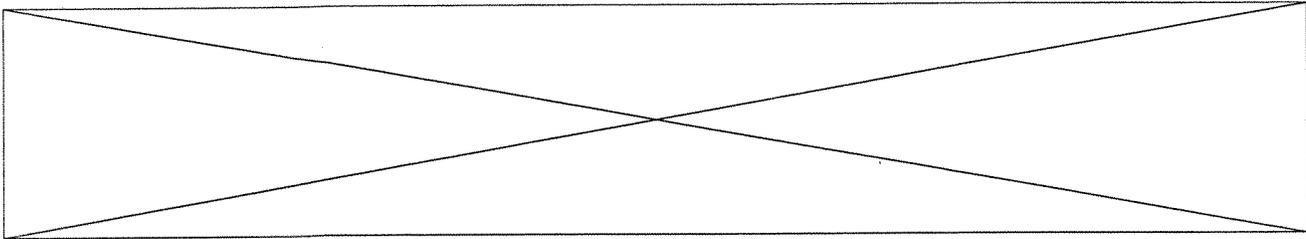
**SECTION 177.** 938.34 (8d) (d) 2. of the statutes is created to read:

938.34 (8d) (d) 2. Notwithstanding subd. 1., if this state is a party to an agreement under s. 343.02 (3) (a), the court may not suspend the operating privilege of a juvenile who is not a resident of this state if operating privilege suspension for failure to comply under circumstances substantially similar to those described in subd. 1. is identified in the rule under s. 343.02 (3) (b).

**SECTION 178.** 938.34 (14m) of the statutes is renumbered 938.34 (14m) (a) and amended to read:

938.34 (14m) (a) Restrict or suspend the operating privilege, as defined in s. 340.01 (40), of a juvenile who is adjudicated delinquent under a violation of any law in which a motor vehicle is involved. If the court suspends a juvenile's

**ENGROSSED BILL**



operating privilege under this subsection, the court shall immediately take possession of the suspended license and, if issued under ch. 343, and, if surrendered, forward it to the department of transportation together with a notice stating the reason for and duration of the suspension. If the court limits a juvenile's operating privilege under this subsection, the court shall immediately notify the department of transportation of that limitation.

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; 1999 a. 9, 32, 57, 89, 185; 2001 a. 16, 59, 69, 109; 2003 a. 33, 50, 200, 321.

**SECTION 179.** 938.34 (14m) (b) of the statutes is created to read:

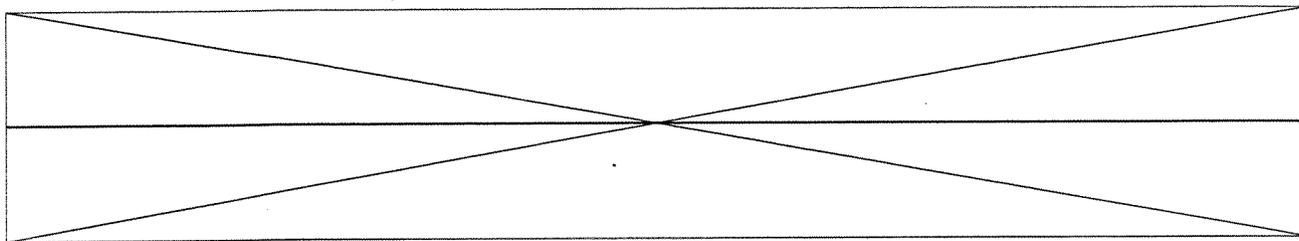
938.34 (14m) (b) Notwithstanding par. (a), if this state is a party to an agreement under s. 343.02 (3) (a), the court may not restrict or suspend the operating privilege of a juvenile who is not a resident of this state on the basis of any violation specified in par. (a) that is an offense identified in the rule under s. 343.02 (3) (b).

**SECTION 180.** 938.34 (14q) of the statutes is renumbered 938.34 (14q) (a).

**SECTION 181.** 938.34 (14q) (b) of the statutes is created to read:

938.34 (14q) (b) Notwithstanding par. (a), if this state is a party to an agreement under s. 343.02 (3) (a), the court may not suspend the operating

**ENGROSSED BILL**



privilege of a juvenile who is not a resident of this state if the violation specified in par. (a) is an offense identified in the rule under s. 343.02 (3) (b).

**SECTION 182.** 938.34 (14r) (a) of the statutes is amended to read:

938.34 (14r) (a) In addition to any other dispositions imposed under this section, if the juvenile is found to have violated ch. 961, the court shall suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 6 months nor more than 5 years. The court shall immediately take possession of any suspended license ~~and, if issued under ch. 343, and, if surrendered,~~ forward it to the department of transportation together with the notice of suspension clearly stating that the suspension or revocation is for a violation of ch. 961.

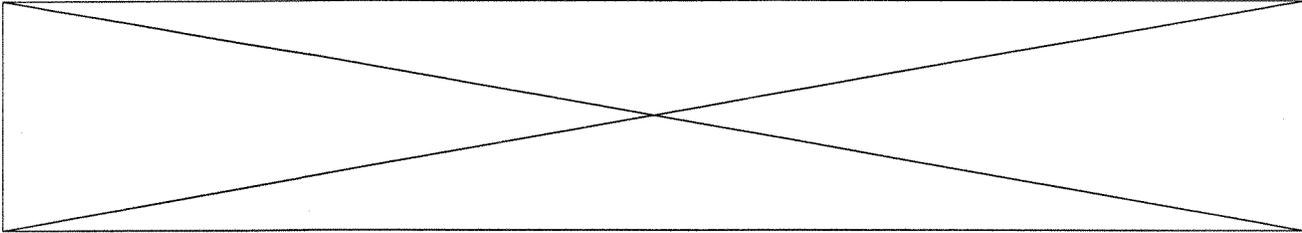
History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; 1999 a. 9, 32, 57, 89, 185; 2001 a. 16, 59, 69, 109; 2003 a. 33, 50, 200, 321.

**SECTION 183.** 938.34 (14q) (b) of the statutes is created to read:

938.34 (14r) (am) Notwithstanding par. (a), if this state is a party to an agreement under s. 343.02 (3) (a), the court may not suspend the operating privilege of a juvenile who is not a resident of this state if a violation of ch. 961 is an offense identified in the rule under s. 343.03 (2) (b).

\*\*\*\*NOTE: I believe that ss. 118.163 (2) (a) and (2m) (a) and 938.342 (1g) (a) and (2) (a) do not need to be treated because, by their nature, they would apply only to residents.

**ENGROSSED BILL**



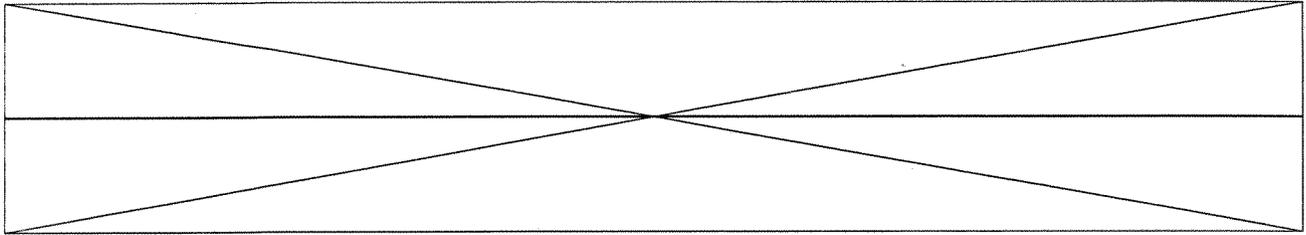
**SECTION 184.** 938.343 (2) of the statutes is renumbered 938.343 (2) (a) and amended to read:

938.343 (2) (a) Impose a forfeiture not to exceed the maximum forfeiture that may be imposed on an adult for committing that violation or, if the violation is only applicable to a person under 18 years of age, \$50. Any such order shall include a finding that the juvenile alone is financially able to pay and shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture, the court may suspend any license issued under ch. 29 or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not more than 2 years. The court shall immediately take possession of the suspended license and, except an operator's license issued by another jurisdiction, and, as applicable, forward it to the department which issued the license, together with the notice of suspension clearly stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the period of suspension, the court shall immediately notify the department, which will thereupon return the license to the person. Any recovery under this subsection shall be reduced by the amount recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

History: 1995 a. 77, 352, 448; 1997 a. 84, 183, 197, 198, 205, 248; 1999 a. 9, 32, 185; 2001 a. 16.

**SECTION 185.** 938.343 (2) (b) of the statutes is created to read:

**ENGROSSED BILL**



938.343 (2) (b) Notwithstanding par. (a), if this state is a party to an agreement under s. 343.02 (3) (a), the court may not suspend the operating privilege of a juvenile who is not a resident of this state if operating privilege suspension for failure to comply under circumstances substantially similar to those described in par. (a) is identified in the rule under s. 343.02 (3) (b).

**SECTION 186.** 938.344 (2e) (b) of the statutes is amended to read:

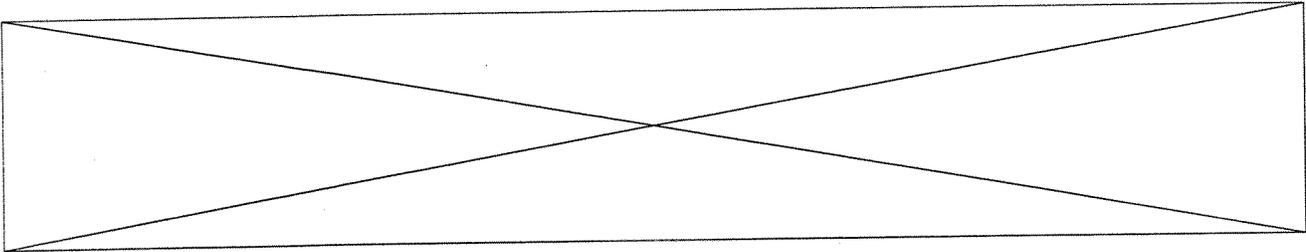
938.344 (2e) (b) Whenever a court suspends a juvenile's operating privilege under this subsection, the court shall immediately take possession of any suspended license ~~and, if issued under ch. 343, and, if surrendered,~~ forward it to the department of transportation, together with the notice of suspension clearly stating that the suspension is for a violation under s. 961.573 (2), 961.574 (2) or 961.575 (2), or a local ordinance that strictly conforms to one of those statutes.

History: 1995 a. 77, 448; 1997 a. 84; 1999 a. 9 s. 3263; 1999 a. 109; 2001 a. 16.

**SECTION 187.** 938.344 (2r) of the statutes is created to read:

938.344 (2r) Notwithstanding subs. (2) to (2e), if this state is a party to an agreement under s. 343.02 (3) (a), the court may not suspend the operating privilege of a juvenile who is not a resident of this state if a violation specified in subs. (2) to (2e), respectively, is an offense identified in the rule under s. 343.02 (3) (b).

**ENGROSSED BILL**



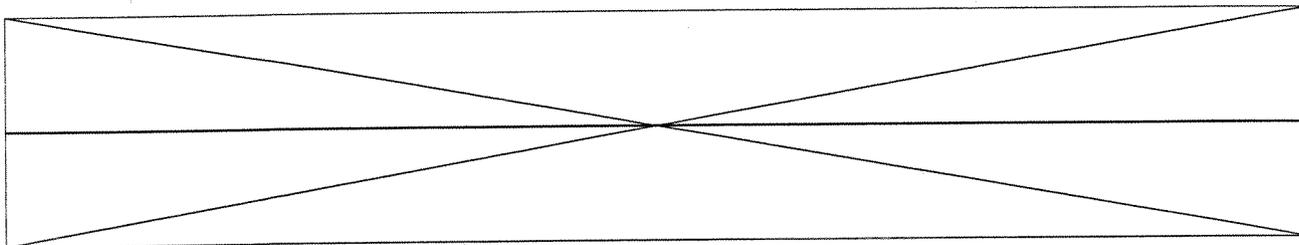
**SECTION 188.** 938.355 (6) (d) 2. of the statutes is renumbered 938.355 (6) (d) 2. a. and amended to read:

938.355 (6) (d) 2. a. Suspension of or ~~limitation~~ restriction on the use of the juvenile's operating privilege, as defined under s. 340.01 (40), or of any approval issued under ch. 29 for a period of not more than 3 years. If the juvenile does not hold a valid operator's license under ch. 343, other than an instruction permit under s. 343.07 or a restricted license under s. 343.08, on the date of the order issued under this subdivision, the court may order the suspension to begin on the date that the operator's license would otherwise be reinstated or issued after the juvenile applies and qualifies for issuance or 2 years after the date of the order issued under this subdivision, whichever occurs first. If the court suspends the juvenile's operating privileges or an approval issued under ch. 29, the court shall immediately take possession of the suspended license or approval ~~and, except an operator's license issued by another jurisdiction, and, as applicable,~~ forward it to the department that issued it, together with the notice of suspension.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50.

**SECTION 189.** 938.355 (6) (d) 2. b. of the statutes is created to read:

**ENGROSSED BILL**



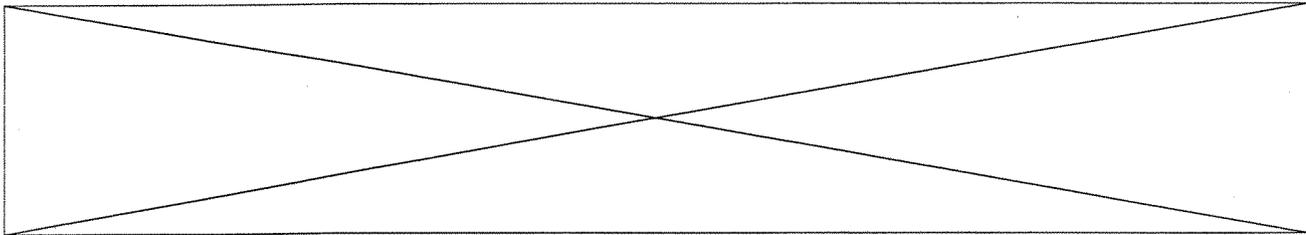
938.355 (6) (d) 2. b. Notwithstanding subd. 1. a., if this state is a party to an agreement under s. 343.02 (3) (a), the court may not suspend or restrict the operating privilege of a juvenile who is not a resident of this state if operating privilege suspension for failure to comply under circumstances substantially similar to those described in this paragraph is identified in the rule under s. 343.02 (3) (b).

\*\*\*\*NOTE: I believe that s. 938.355 (6m) 1m. and (ag) do not need to be treated because, by their nature, they would apply only to residents.

**SECTION 190.** 938.396 (4) of the statutes is amended to read:

938.396 (4) When a court assigned to exercise jurisdiction under this chapter and ch. 48 or a municipal court exercising jurisdiction under s. 938.17 (2) revokes, suspends, or restricts a juvenile's operating privilege under this chapter, the department of transportation may not disclose information concerning or relating to the revocation, suspension, or restriction to any person other than a court assigned to exercise jurisdiction under this chapter and ch. 48, a municipal court exercising jurisdiction under s. 938.17 (2), a district attorney, county corporation counsel, or city, village, or town attorney, a law enforcement agency, a driver licensing agency of another jurisdiction, the juvenile whose operating privilege is revoked, suspended, or restricted, or the juvenile's parent or guardian.

**ENGROSSED BILL**



Persons entitled to receive this information may not disclose the information to other persons or agencies.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 80, 95, 181, 205, 252, 258, 281; 1999 a. 9, 32, 89; 2001 a. 95; 2003 a. 82, 292.

\*\*\*NOTE: I don't believe that any treatment of s. 940.09 (1d) or 940.25 (1d) is necessary, since the cross-referenced treatments in ss. 343.301 and 346.65 pick up any needed change.

**SECTION 191.** 943.21 (3m) (b) of the statutes is amended to read:

943.21 (3m) (b) *Driver's license suspension; 2nd offense.* Subject to pars. (c) and ~~(d)~~ (e), if a person commits a repeat offense, the court, in addition to imposing any penalty under sub. (3) (bm), may suspend the person's operating privilege for not more than 6 months.

History: 1977 c. 173; 1979 c. 239, 242; 1991 a. 39, 65, 189; 1995 a. 160; 2001 a. 16, 109; 2003 a. 80, 252, 327.

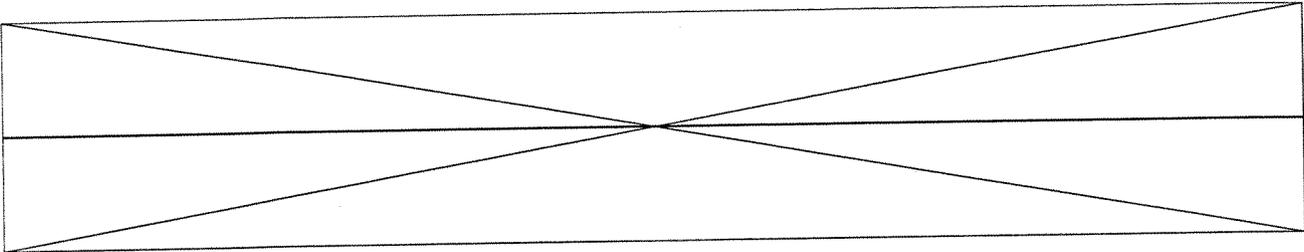
**SECTION 192.** 943.21 (3m) (c) of the statutes is amended to read:

943.21 (3m) (c) *Driver's license suspension; 3rd offense.* Subject to ~~par.~~ pars. (d) and (e), if a person violates sub. (1m) (d) after having been found by a court to have committed an offense that constitutes a repeat offense, the court, in addition to imposing any penalty under sub. (3) (bm), shall suspend the person's operating privilege for not more than 6 months.

History: 1977 c. 173; 1979 c. 239, 242; 1991 a. 39, 65, 189; 1995 a. 160; 2001 a. 16, 109; 2003 a. 80, 252, 327.

**SECTION 193.** 943.21 (3m) (d) of the statutes is amended to read:

**ENGROSSED BILL**



943.21 (3m) (d) *Driver's license suspension; 4th offense.* If Subject to par. (e), if a person violates sub. (1m) (d) after having his or her operating privilege suspended under par. (c), the court, in addition to imposing any penalty under sub. (3) (bm), shall suspend the person's operating privilege for one year.

History: 1977 c. 173; 1979 c. 239, 242; 1991 a. 39, 65, 189; 1995 a. 160; 2001 a. 16, 109; 2003 a. 80, 252, 327.

**SECTION 194.** 943.21 (3m) (e) of the statutes is created to read:

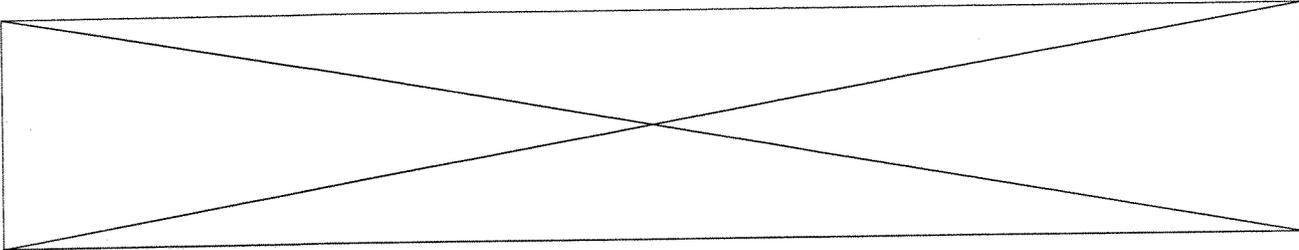
943.21 (3m) (e) If this state is a party to an agreement under s. 343.02 (3) (a), the court may not suspend the operating privilege of a person who is not a resident of this state if a violation of sub. (1m) (d) is an offense identified in the rule under s. 343.02 (3) (b).

**SECTION 195.** 961.50 (1) (intro.) of the statutes is amended to read:

961.50 (1) (intro.) If a person is convicted of any violation of this chapter, the court shall, in addition to any other penalties that may apply to the crime, suspend the person's operating privilege, as defined in s. 340.01 (40), for not less than 6 months nor more than 5 years. The court shall immediately take possession of any suspended license ~~and~~ , if issued under ch. 343, and, if surrendered, forward it to the department of transportation together with the record of conviction and notice of the suspension. The person is eligible for an occupational license under s. 343.10 as follows:

History: 1991 a. 39; 1993 a. 16, 480; 1995 a. 448 s. 291; Stats. 1995 s. 961.50; 1997 a. 84.

**ENGROSSED BILL**



**SECTION 196.** 961.50 (1m) of the statutes is created to read:

961.50 (1m) Notwithstanding sub. (1), if this state is a party to an agreement under s. 343.02 (3) (a), the court may not suspend the operating privilege of a person who is not a resident of this state if a violation of this chapter is an offense identified in the rule under s. 343.03 (2) (b).

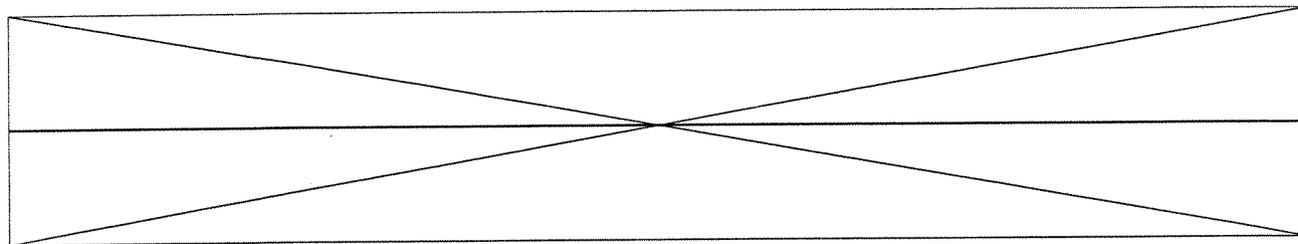
**SECTION 197.** 961.50 (2) of the statutes is amended to read:

961.50 (2) For purposes of counting the number of convictions under sub. (1), convictions under the law of a federally recognized American Indian tribe or band in this state, federal law or the law of another jurisdiction, as defined in s. ~~343.32 (1m) (a)~~ 343.01 (2) (cv), for any offense therein which, if the person had committed the offense in this state and been convicted of the offense under the laws of this state, would have required suspension or revocation of such person's operating privilege under this section, shall be counted and given the effect specified under sub. (1). The 5-year period under this section shall be measured from the dates of the violations which resulted in the convictions.

History: 1991 a. 39; 1993 a. 16, 480; 1995 a. 448 s. 291; Stats. 1995 s. 961.50; 1997 a. 84.

**SECTION 198.** 909.02 (4) of the statutes is amended to read: Note: does the amendment make it clear that an electronic copy is computer-

**ENGROSSED BILL**



**generated? The electronic copy is not a comparison to the original by a person nor does the electronic copy have a seal on it. Is this sufficient to ensure admissibility as evidence in court?**

909.02 (4) CERTIFIED COPIES OF PUBLIC RECORDS. A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification, by certificate complying with sub. (1), (2) or (3) or complying with any statute or rule adopted by the supreme court, or, with respect to records maintained under s. 343.23, certified electronically in any manner determined by the department of transportation to conform with the requirements of s. 909.01.

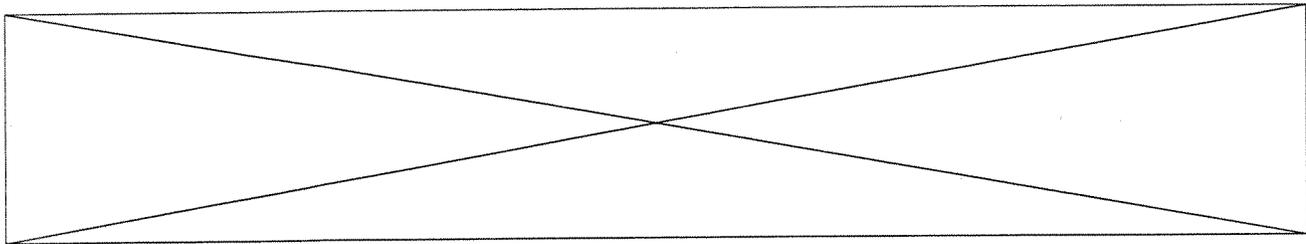
History: Sup. Ct. Order, 59 Wis. 2d R1, R340 (1973); Sup. Ct. Order, 67 Wis. 2d 585, viii (1975); 1975 c. 200; 1979 c. 89; Sup. Ct. Order, 158 Wis. 2d xxv (1990); 1991 a. 32, 148, 304, 315; 1999 a. 85.

\*\*\*\*NOTE: The attached draft does not otherwise specifically treat the issue of the electronic maintenance or transfer of driver record information. Given the passage of the 2003 Wisconsin Act 294 relating to electronic transactions and records (UETA) and creating ss. 137.11 to 137.24, stats., and the existence of ss. 909.02 (4) and 910.05, I am unsure what additional statutory authorization or treatment DOT considers to be necessary.

**SECTION 9348. Initial applicability; transportation.**

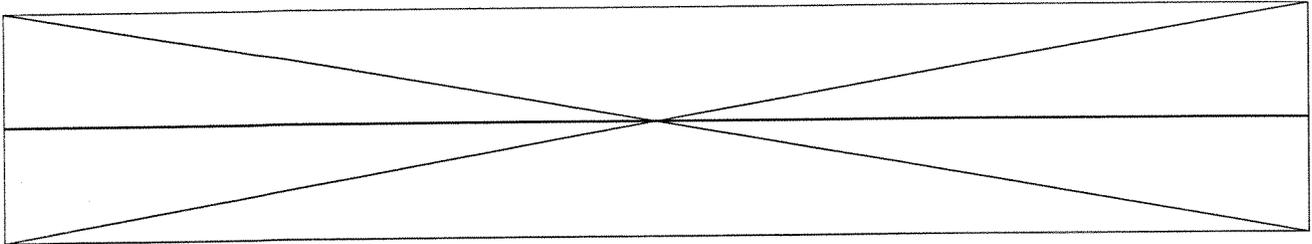
(1) DRIVER LICENSE AGREEMENT. The treatment of sections 23.33 (13) (e), 125.07 (4) (bs) (intro.) and (c) (intro.) and (cm), 125.085 (3) (bp), 340.01 (13m),

**ENGROSSED BILL**



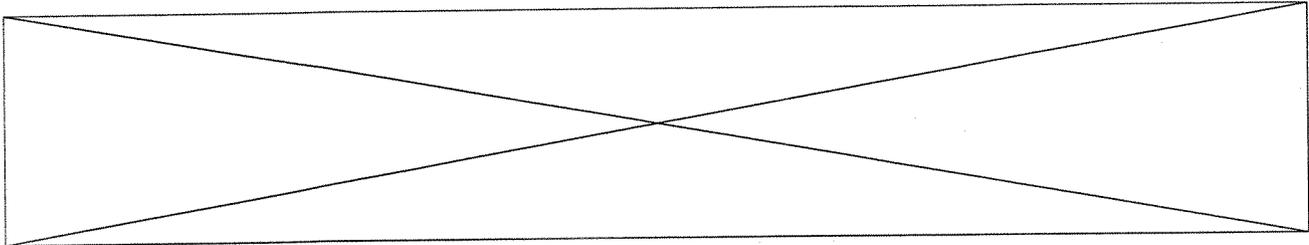
343.027, 343.03 (5) (a), 343.03 (6) (a), 343.05 (2) (a) 2. and (5) (b) 1., 343.06 (1) (j) and (2), 343.085 (4), 343.10 (7) (c), 343.14 (2j) (b), 343.16 (5) (a), 343.20 (1) (e) 1., 343.23 (2) (a) (intro.) and (b) and (3) (a) and (4) (b), 343.235 (3) (a), 343.237 (2), 343.24 (3) and (4) (c) 1., 343.28 (1) and (2), 343.30 (1), (1g) (a) and (b), (1n), (1o) (intro.), (1p), 343.30 (1q) (b) (intro.) and 4., (1z), (2d), (2g), (2m), (4), and (6) (d), 343.301 (1) (a) 1. and 2., 343.305 (7) (a), (8) (a), (9) (a) (intro.) and (am) (intro.), (10) (a) and (b) 3. and 4. and (em), and (11), 343.31 (1) (intro.) and (hm), (2), (2m), (2r), (2s), and (3) (a) and (bm) (intro.) and (c) and (d) (intro.) and (e) and (f) and (i) and (j), 343.315 (2) (f) 7. and (fm) and (h) and (j) (intro.), and (3) (a) and (b) and (d), 343.32 (1m) (b) (intro.), (1s), (1v), (1z), (2) (a), and (3), 343.325 (4), 343.34 (1) and (2), 343.345, 343.36 (title) and (3), 343.38 (1) (c) 2. c., (2), and (4) (intro.), 343.39 (1) (a), 343.44 (1) (a) and (b) and (c) and (d), 343.44 (2r), (2s), and (4r), 343.50 (8) (b), 344.02 (3), 344.13 (2), 344.18 (1m) (a), 344.19 (1), (2), and (3), 344.24, 344.27 (3), 344.29, 344.30 (1), 344.33 (1), 344.34, 344.40 (2) (a), 344.42, 344.45 (1), 345.11 (2), 345.23 (2) (c), 345.28 (5) (b) 1. and 2. a., 345.47 (1) (intro.), (b), and (c), 345.48 (2), 346.63 (2m), 346.65 (2c), (2e), (2u) (c), and (6) (a) 1., 346.93 (2f) and (2g) (intro.), 350.11 (3) (d), 631.37 (4) (e), 800.09 (1) (c), 800.095 (4) (b) 4., 938.34 (14r) (a), 938.344 (2e) (b), 938.396 (4), 943.21 (3m) (b) and (c) and (d), 961.50 (1) (intro.) and (2), and 909.02 (4) of the statutes, the renumbering of

**ENGROSSED BILL**



sections 125.085 (3) (bd) and 938.34 (14q) of the statutes, the renumbering and amendment of sections 343.30 (2j) (a) and (5), 938.17 (2) (d), 938.34 (8), (8d) (d), and (14m), 938.343 (2), and 938.355 (6) (d) 2. of the statutes, the consolidation, renumbering and amendment of sections 343.30 (1q) (c) 1. (intro.), a., and c. and 343.305 (10) (c) 1. (intro.), a. and c. of the statutes, the creation of sections 125.07 (4) (cb), 125.085 (3) (bd) 2., 343.01 (2) (bc), (bm), and (cv), 343.02 (3), 343.06 (1) (bm), 343.23 (2) (ar) and (2m) and (3m), 343.30 (5) (b), 343.301 (2) (b) 3., 343.305 (9) (e), 343.31 (2g), (2z), and (3) (bg), 343.315 (3) (bm), 343.32 (2m), 343.36 (3m), 344.08 (1m), 344.14 (1r), 344.19 (2) (a), 344.25 (7), 346.93 (2m), 351.025 (3), 767.303 (1m), 938.17 (2) (d) 2., 938.34 (8) (b), (8d) (d) 2., (14m) (b), (14q) (b), and (14r) (am), 938.343 (2) (b), 938.344 (2r), 938.355 (6) (d) 2. b., 943.21 (3m) (e), 961.50 (1m) of the statutes, and the repeal of sections 343.30 (1q) (c) 1. b., 343.305 (10) (c) 1. b., 343.31 (3) (b), 343.32 (1) and (1m) (a), 343.38 (4) (a) and (b), and 344.32 of the statutes first applies to violations committed or refusals occurring on the effective date of this subsection, but does not preclude the counting of other convictions, suspensions, or revocations as prior convictions, suspensions, or revocations for purposes of administrative action by the department of transportation, sentencing by a court, or revocation or suspension of motor vehicle operating privileges.

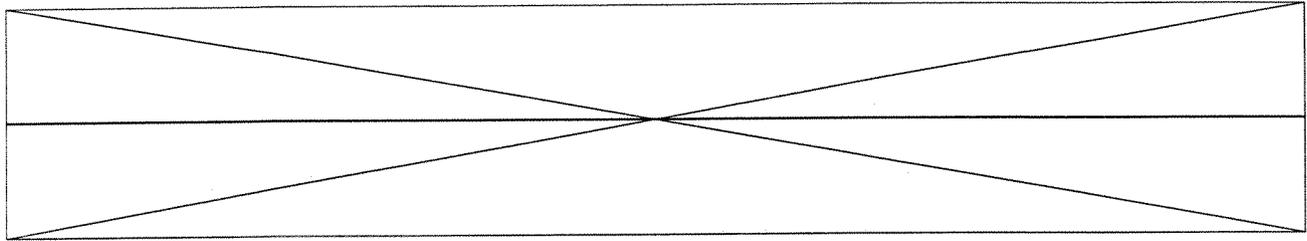
**ENGROSSED BILL**



**SECTION 9448. Effective dates; transportation.**

(1) DRIVER LICENSE AGREEMENT. The treatment of sections 23.33 (13) (e), 125.07 (4) (bs) (intro.) and (c) (intro.) and (cm), 125.085 (3) (bp), 340.01 (13m), 343.027, 343.03 (5) (a), 343.03 (6) (a), 343.05 (2) (a) 2. and (5) (b) 1., 343.06 (1) (j) and (2), 343.085 (4), 343.10 (7) (c), 343.14 (2j) (b), 343.16 (5) (a), 343.20 (1) (e) 1., 343.23 (2) (a) (intro.) and (b) and (3) (a) and (4) (b), 343.235 (3) (a), 343.237 (2), 343.24 (3) and (4) (c) 1., 343.28 (1) and (2), 343.30 (1), (1g) (a) and (b), (1n), (1o) (intro.), (1p), 343.30 (1q) (b) (intro.) and 4., (1z), (2d), (2g), (2m), (4), and (6) (d), 343.301 (1) (a) 1. and 2., 343.305 (7) (a), (8) (a), (9) (a) (intro.) and (am) (intro.), (10) (a) and (b) 3. and 4. and (em), and (11), 343.31 (1) (intro.) and (hm), (2), (2m), (2r), (2s), and (3) (a) and (bm) (intro.) and (c) and (d) (intro.) and (e) and (f) and (i) and (j), 343.315 (2) (f) 7. and (fm) and (h) and (j) (intro.), and (3) (a) and (b) and (d), 343.32 (1m) (b) (intro.), (1s), (1v), (1z), (2) (a), and (3), 343.325 (4), 343.34 (1) and (2), 343.345, 343.36 (title) and (3), 343.38 (1) (c) 2. c., (2), and (4) (intro.), 343.39 (1) (a), 343.44 (1) (a) and (b) and (c) and (d), 343.44 (2r), (2s), and (4r), 343.50 (8) (b), 344.02 (3), 344.13 (2), 344.18 (1m) (a), 344.19 (1), (2), and (3), 344.24, 344.27 (3), 344.29, 344.30 (1), 344.33 (1), 344.34, 344.40 (2) (a), 344.42, 344.45 (1), 345.11 (2), 345.23 (2) (c), 345.28 (5) (b) 1. and 2. a., 345.47 (1) (intro.), (b), and (c), 345.48 (2), 346.63 (2m), 346.65 (2c), (2e), (2u) (c), and (6) (a) 1., 346.93

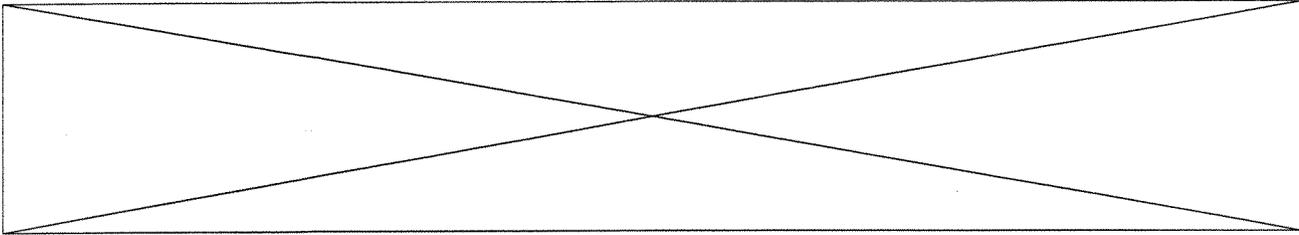
**ENGROSSED BILL**



(2f) and (2g) (intro.), 350.11 (3) (d), 631.37 (4) (e), 800.09 (1) (c), 800.095 (4) (b) 4., 938.34 (14r) (a), 938.344 (2e) (b), 938.396 (4), 943.21 (3m) (b) and (c) and (d), 961.50 (1) (intro.) and (2), and 909.02 (4) of the statutes, the renumbering of sections 125.085 (3) (bd) and 938.34 (14q) of the statutes, the renumbering and amendment of sections 343.30 (2j) (a) and (5), 938.17 (2) (d), 938.34 (8), (8d) (d), and (14m), 938.343 (2), and 938.355 (6) (d) 2. of the statutes, the consolidation, renumbering and amendment of sections 343.30 (1q) (c) 1. (intro.), a., and c. and 343.305 (10) (c) 1. (intro.), a. and c. of the statutes, the creation of sections 125.07 (4) (cb), 125.085 (3) (bd) 2., 343.01 (2) (bc), (bm), and (cv), 343.02 (3), 343.06 (1) (bm), 343.23 (2) (ar) and (2m) and (3m), 343.30 (5) (b), 343.301 (2) (b) 3., 343.305 (9) (e), 343.31 (2g), (2z), and (3) (bg), 343.315 (3) (bm), 343.32 (2m), 343.36 (3m), 344.08 (1m), 344.14 (1r), 344.19 (2) (a), 344.25 (7), 346.93 (2m), 351.025 (3), 767.303 (1m), 938.17 (2) (d) 2., 938.34 (8) (b), (8d) (d) 2., (14m) (b), (14q) (b), and (14r) (am), 938.343 (2) (b), 938.344 (2r), 938.355 (6) (d) 2. b., 943.21 (3m) (e), 961.50 (1m) of the statutes, and the repeal of sections 343.30 (1q) (c) 1. b., 343.305 (10) (c) 1. b., 343.31 (3) (b), 343.32 (1) and (1m) (a), 343.38 (4) (a) and (b), and 344.32 of the statutes and SECTION 9348 (1) of this act takes effect on July 1, 2006-7

\*\*\*NOTE: We have discussed by e-mail an "open-ended" effective date to give DOT latitude in implementing the DLA. Perhaps the approach taken in this draft

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obviates the need for such an open-ended effective date, and a specific date can be used. If not, for the reasons stated in the e-mail communications on this issue and because of the many provisions treated in this draft, careful consideration will have to be given to structuring the effective date. For now I have used a date certain for the sake of simplicity. We would not want to publish a date sooner than July 1, 2007. We need to be sure that the language used in other sections of this draft ensures that the law does not take effect until Wisconsin has completed the system changes necessary to implement.

(END)

## Gary, Aaron

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**From:** Gary, Aaron  
**Sent:** Friday, December 10, 2004 4:06 PM  
**To:** Percy, Doug  
**Cc:** Baetsen, Karen; Grinde, Kirsten; Hammer, Paul  
**Subject:** DLA draft (LRB-0064; BB0082)- need guidance

Hi Doug and Kirsten,

I will need some guidance from DOA in drafting the Driver License Agreement (DLA) draft, as there is at least one sticking point between DOT and myself.

The concept of the draft is pretty straightforward (the execution, as you may have noticed, is otherwise). The national DLA is not finalized, but it is in a very advanced stage and is expected to be finalized in the near future. It is anticipated that most (but not all) states will join the DLA when it is finalized. The basic idea behind the DLA is that there will be one national driver record located in the state that has issued the person his or her driver's license. (If the person is not licensed, the state of the person's residency will maintain the record.) If a person is convicted of committing an offense in any state, notice of the conviction is forwarded to the jurisdiction of record and the jurisdiction of record takes action against the license. That information would be available to other states.

Under current law, if a person commits an offense in Wisconsin, the person is subject to all penalties provided by law for the offense, regardless of whether the person is a resident or nonresident. For some offenses, these penalties include a requirement that the court suspend or revoke the person's WI operating privilege. The court enters an order accordingly, and DOT receives notice of the suspension/revocation and records it on the person's driver record. Information regarding the suspension/revocation then becomes available to law enforcement personnel.

As part of this DLA draft, DOT wants to record in its driver record suspensions/revocations of WI licensee or residents only. With regard to a nonresident, DOT wants to simply forward notice to the nonresident's state of licensure. The "/1" draft was prepared to provide for this result for both administrative and court-ordered suspensions or revocations. The draft created an exception to court-ordered suspensions or revocations for nonresidents such that, for a nonresident, a court would determine that the person is a nonresident or licensed in another jurisdiction and DOT, based upon notice of the conviction, would forward such notice to the jurisdiction of record, which would then take action on the license.

DOT has asked that the redraft omit the treatment of court-ordered suspension/revocation. The result is that, when a WI judge tells a nonresident defendant standing before the judge (as required by law) that "your WI operating privilege is hereby suspended/revoked", in truth the WI operating privilege may or may not be suspended or revoked. It depends. It may depend on whether the defendant is licensed in a state that has joined the DLA, and it may depend on how well this interstate system works and how the state of licensure handles the conviction. But the WI court has no jurisdiction over what another state might do upon receiving the WI conviction.

I consider it problematic to have WI judges telling defendants that something will happen or has happened when in fact there is uncertainty whether this is true. Rather than revise what the court does, DOT is asking to set up a statutory system where it is not required to directly recognize the court's order, but depends on what will happen in other states, some of whom may not be DLA members. (The "/1" draft avoids these problems, but requires courts to make inquiries at sentencing.)

This is a significant piece of the draft and there won't be much time to keep revising it. Are you comfortable with DOT's approach? Or do you want to retain the mechanism employed in the "/1" draft (see treatment in s. 343.30 and 343.36 (3).)?

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:** Percy, Doug  
**Sent:** Monday, December 13, 2004 9:39 AM  
**To:** Gary, Aaron  
**Subject:** RE: DLA draft (LRB-0064; BB0082)- need guidance

*12/15 H/c w/ Doug Percy -  
doesn't have an answer yet,  
not sure when he will  
have an answer*

We are still working this out. I will get back to you.

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

**From:** Gary, Aaron [mailto:Aaron.Gary@legis.state.wi.us]  
**Sent:** Saturday, December 11, 2004 3:30 PM  
**To:** Percy, Doug  
**Cc:** Baetsen, Karen; Grinde, Kirsten; Hammer, Paul  
**Subject:** RE: DLA draft (LRB-0064; BB0082)- need guidance

By the way, I can think of at least one possible middle ground, though it may involve some additional work for DOT. Aaron

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

**From:** Gary, Aaron  
**Sent:** Friday, December 10, 2004 4:06 PM  
**To:** Percy, Doug  
**Cc:** Baetsen, Karen; Grinde, Kirsten; Hammer, Paul  
**Subject:** DLA draft (LRB-0064; BB0082)- need guidance

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As part of this DLA draft, DOT wants to record in its driver record suspensions/revocations of WI licensee or residents only. With regard to a nonresident, DOT wants to simply forward notice to the nonresident's state of licensure. The "/1" draft was prepared to provide for this result for both administrative and court-ordered suspensions or revocations. The draft created an exception to court-ordered suspensions or revocations for nonresidents such that, for a nonresident, a court would determine that the person is a nonresident or licensed in another jurisdiction and DOT, based upon notice of the conviction, would forward such notice to the jurisdiction of record, which would then take action on the license.

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has joined the DLA, and it may depend on how well this interstate system works and how the state of licensure handles the conviction. But the WI court has no jurisdiction over what another state might do upon receiving the WI conviction.

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This is a significant piece of the draft and there won't be much time to keep revising it. Are you comfortable with DOT's approach? Or do you want to retain the mechanism employed in the "/1" draft (see treatment in s. 343.30 and 343.36 (3).)?

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

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**From:** Biermeier, Anna  
**Sent:** Friday, December 10, 2004 2:21 PM  
**To:** Gary, Aaron; Baetsen, Karen  
**Cc:** Hammer, Paul; Biermeier, Anna; Prideaux-Wentz, Gary  
**Subject:** RE: DLA draft - with DMV comments

DMV will identify home jurisdiction for every driver for which we receive a court disposition or order and/or every driver for which we take an administrative action.

We will forward DLA Code violations to the home jurisdiction (for the driver control record).

We will create or add to a Wisconsin record the non-DLA code violations/orders. (The Wisconsin record will not be the driver control record under the DLA.)

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

**From:** Gary, Aaron [mailto:Aaron.Gary@legis.state.wi.us]  
**Sent:** Friday, December 10, 2004 2:03 PM  
**To:** Baetsen, Karen  
**Cc:** Hammer, Paul; Biermeier, Anna; Prideaux-Wentz, Gary  
**Subject:** RE: DLA draft - with DMV comments

Hi Karen,

I'm currently wading through the mass of comments. Since this will require at least 3 drafts anyway, I think I'll do another redraft before I meet with DOT, so I'd like to wait until after Dec. 16 to have the meeting.

Also, can you give me a succinct answer to this question: Under the suggested changes, when a WI court is sentencing a nonresident defendant and tells that defendant that his/her WI operating privilege is suspended or revoked for the offense, what exactly will DOT do in response to the notice of suspension/revocation from the court?

Thanks. Aaron

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

> -----Original Message-----

> **From:** Baetsen, Karen  
> **Sent:** Friday, December 10, 2004 9:26 AM  
> **To:** Gary, Aaron  
> **Cc:** Hammer, Paul; Biermeier, Anna; Prideaux-Wentz, Gary  
> **Subject:** FW: DLA draft - with DMV comments  
> **Importance:** High

> Aaron, attached is the DLA draft with DMV comments and concerns noted within your draft. Printing in color helps!

> We are all set for our joint discussion on Thursday Dec. 16, starting at 9:15 in room 144B (in our corridor). If you are able to make any revisions before our meeting, we'd appreciate receiving the next draft revision prior to the meeting so can review and minimize your time here. Thank you for including us in the review process. I gave the copy with edit notations to Anna yesterday.

> - Karen

> -----Original Message-----

> **From:** Biermeier, Anna  
> **Sent:** Thursday, December 09, 2004 4:40 PM  
> **To:** Baetsen, Karen

> Cc: Nilsen, Paul  
> Subject: DLA draft - with DMV comments  
>  
> << File: dladraftwithcommentsinit.doc >>  
>  
> Karen,  
> Attached is the draft with our comments.  
>  
> If there is a goal for a new draft that goal might be: to provide a draft that allows  
entry into the Driver License Agreement with a minimal level of compliance with the  
Agreement and a minimal level of disruption to current state laws and recordkeeping  
systems (law enforcement, DA, courts, and the state).  
>  
> Thank you for working on this.  
>  
> Anna  
>  
>

## Gary, Aaron

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**From:** Baetsen, Karen  
**Sent:** Wednesday, December 01, 2004 10:34 AM  
**To:** Gary, Aaron  
**Subject:** FW: question for the drafter

Hi Aaron. Responses are attached from DMV, as it relates to who shares information with other jurisdictions.

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

**From:** Prideaux-Wentz, Gary  
**Sent:** Tuesday, November 30, 2004 10:46 AM  
**To:** Biermeier, Anna; Baetsen, Karen  
**Subject:** RE: question for the drafter

I agree with Anna. As far back as the discussions in the 1980s about joining the old Driver License Compact, the intent was to make it easier for the courts and law enforcement: it wasn't supposed to make any difference who they were dealing with (resident vs. nonresident). The administrative actions would be taken through cooperation between the DMVs (or their equivalents).

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

**From:** Biermeier, Anna  
**Sent:** Tuesday, November 30, 2004 10:35 AM  
**To:** Baetsen, Karen; Prideaux-Wentz, Gary  
**Subject:** RE: question for the drafter

As I understand the DLA, it is an agreement between state agencies. The agreement covers responsibility for recording convictions and licensing actions. If our law can be written to make it clear that DMV will forward any court action regarding a non-licensee/non-resident to the state of jurisdiction, we should be meeting the intent of the DLA. The law may need to explicitly say that those court actions will not be recorded in Wisconsin unless they are non-DLA violations.

If we expand the scope of the DLA to direct law enforcement and courts to cite and dispose of citations for non-residents differently, I believe they will see this as an unfunded mandate. The opposition to expanding the scope of the DLA is likely to defeat the initiative.

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

**From:** Baetsen, Karen  
**Sent:** Tuesday, November 30, 2004 10:01 AM  
**To:** Biermeier, Anna; Prideaux-Wentz, Gary  
**Subject:** FW: question for the drafter

Aaron presents 2 options for drafting to answer Anna's concern to not have either the courts or law enforcement notify other jurisdictions. If we both missed the point, please also clarify that fact! Anna and Gary, can you respond to Aaron's suggestions?

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

**From:** Gary, Aaron [mailto:Aaron.Gary@legis.state.wi.us]  
**Sent:** Tuesday, November 30, 2004 9:51 AM  
**To:** Baetsen, Karen  
**Subject:** RE: question for the drafter

Hi Karen,

Thanks for the clarification. Anna's question cuts to the heart of why this was such a complicated draft. The short answer is yes, we could do as Anna suggests, but I don't believe that the result will comply with the DLA or be consistent with what I understood the drafting instructions to be. As background, under existing law, if a person commits an offense in this state, the person is subject to certain penalties provided by law, including suspension or

revocation of an operating privilege. For the most part, there is no distinction between residents and nonresidents - if you violate this state's law while in this state, you are subject to the specified sentence whether you live here or not. So I saw two primary options in drafting: (1) omit treatment of court-imposed suspensions/revocations from the draft, thereby retaining existing law; or (2) restrict court-imposed suspension/revocations to (with exceptions) residents. I went with option (2) in order to maintain consistency with the DLA. If option (1) is used, then courts (as they do under existing law) will be suspending/revoking the operating privileges of nonresidents who violate in this state for offenses included in the DLA Code. As I understand it, the draft is intended to avoid this result. If you want WI courts to not suspend/revoke operating privileges of nonresidents for DLA Code violations, I don't see any way of avoiding as a prerequisite that the court must ascertain whether the violator is a resident.

If you have any suggestions on this issue or I am still missing the point, please let me know. Thanks. Aaron

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

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

**From:** Baetsen, Karen  
**Sent:** Tuesday, November 30, 2004 8:31 AM  
**To:** Gary, Aaron  
**Subject:** RE: question for the drafter

Correct. .Karen

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

**From:** Gary, Aaron [mailto:Aaron.Gary@legis.state.wi.us]  
**Sent:** Monday, November 29, 2004 3:50 PM  
**To:** Baetsen, Karen  
**Subject:** RE: question for the drafter

Karen,

Before I respond to the substance of the question, just for clarification, the only communication between states will be between DOT and the equivalent agency in another jurisdiction. Neither courts nor law enforcement will communicate, or provide info. to, another state (to my recollection). To the extent such info. is passed, it will go from WI court or WI law enforcement to DOT; then if necessary, DOT will provide info. to another state. Is this the assumption of the follow up? Thanks. Aaron

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

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

**From:** Baetsen, Karen  
**Sent:** Monday, November 29, 2004 1:46 PM  
**To:** Gary, Aaron  
**Subject:** FW: question for the drafter

Aaron, here's a follow-up from DMV... Since it's the state Motor Vehicle agency that interacts with the other licensing jurisdictions under the DLA, we never intended to have law enforcement nor the courts be the conduit for interacting with those other jurisdictions. thanks!

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

**From:** Biermeier, Anna  
**Sent:** Monday, November 29, 2004 12:53 PM  
**To:** Baetsen, Karen  
**Subject:** RE: question for the drafter

Thanks, Karen.

Follow-up on Second Item: if possible, can we eliminate from the draft the sections that require law enforcement and the courts to take a different action based on jurisdiction of license or residency? If the law is drafted so that DMV is responsible for notifying the jurisdiction of record of convictions and/or withdrawals (as we do now) without any new responsibility or change in authority for law enforcement or the courts, the DLA will probably be more acceptable to these partners and will be cheaper to administer. If law enforcement at the time of a BAC test or refusal has to make a decision on jurisdiction or the courts have to make a decision it will add costs to the process that are not necessary (i.e. it looks like an unfunded mandate). DMV can research jurisdiction and send the court decision to the appropriate jurisdiction of record, if it is not Wisconsin. Because much of the data transferred from law enforcement to courts to DMV is done electronically, any change will also require change (costly) to computer systems

We expect that we will need to continue to handle the BAC administrative review process in Wisconsin and forward a suspension to other state, if the person is required to be suspended. Law enforcement agencies will not be expected to forward data to other jurisdictions. It would be costly for the law enforcement agency to figure out where to send the information and the other jurisdiction will not want to receive it from the law enforcement agency. They will want to receive it from the state agency. We assume that we will need to continue to handle the review process and send the administrative suspension to the other state, because it is unlikely that there will be opportunities for due process (review) within the 30 days by the other jurisdiction.

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

**From:** Baetsen, Karen  
**Sent:** Monday, November 29, 2004 11:00 AM  
**To:** Biermeier, Anna; Prideaux-Wentz, Gary  
**Subject:** FW: question for the drafter

Here's Aaron's response, Anna.

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

**From:** Gary, Aaron [mailto:Aaron.Gary@legis.state.wi.us]  
**Sent:** Monday, November 29, 2004 10:47 AM  
**To:** Baetsen, Karen  
**Subject:** RE: question for the drafter

Hi Karen,

With regard to the first question, different statutes in ch. 343 use slightly different language, and I have tried to incorporate the most suitable based upon what else appears in the particular section or the context of the particular section, hence the variety of language to basically say the same thing. With regard to Anna's specific question, I don't think we can use a rule to accomplish what appears in a. and b. - I think these statutory treatments are necessary.

With regard to the second question, the answer is "it depends." The provisions that Anna identifies are based on the form that s. 343.30 takes in the draft. As constructed, the draft prohibits a court from suspending/revoking the

operating privilege of a nonresident for a DLA offense committed in Wisconsin. To make this distinction and appropriately sentence, the court will need to ascertain whether the offender is a licensee or resident (as well as whether the conviction is for a DLA offense). If the presumption under existing statutes is suspension/revocation for an offense, deviation from that clearly indicate why a court didn't do it, ie, that the offender was not a resident. Since the court has to make the determination anyway for purposes of sentencing, I thought it would be more efficient to have the court note it in the info. sent to DOT rather than hope DOT could figure it out based upon the info. sent. However, the change to s. 343.28 adding such info. to the record of conviction could be easily reversed. If you want the draft to NOT address court suspension/revocations, this would be a major change to the structure of the draft.

I hope this helps. As I mentioned in my prior e-mail, it is useful for me to know of concerns or expected major changes early on, so I certainly don't mind answering questions or beginning to rework major parts of the draft as soon as it is determined that changes are needed.

Also, as I indicated before, NB050713 overlaps with the DLA draft. As I try to wrap up that draft, I am encountering a few complications that I did not recognize in the DLA draft. I will try to finish up NB050713 soon because you may want to incorporate some of it into the DLA draft.

Aaron

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

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

**From:** Baetsen, Karen  
**Sent:** Monday, November 29, 2004 10:10 AM  
**To:** Gary, Aaron  
**Subject:** FW: question for the drafter  
**Importance:** High

Aaron, DMV is reviewing the DLA draft (LRB 0064/1) and has several questions below. Can you provide us with your thoughts? Thanks...Karen Baetsen

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

**From:** Biermeier, Anna  
**Sent:** Wednesday, November 24, 2004 4:40 PM  
**To:** Baetsen, Karen  
**Subject:** question for the drafter

Karen,

We will have additional questions for Aaron as we continue our review. To begin with I have two.

#### FIRST QUESTION

a. In some sections of the DLA draft, this language is used: "or the law of another jurisdiction for an offense therein which, if committed in this state, would have been a violation of any of these provisions."

b. In other sections, this language is used: "or substantially similar terms are used in that jurisdiction's laws."

c. This language is also used: "for an offense or combination of offenses identified in the rule under s.343.02(3)(b)."

We like the addition of s.343.02(3)(b). We had not thought about putting into rule the DLA Code and the corresponding Wisconsin statutes and ACD Codes (codes used by states to make comparisons between the laws of various jurisdictions. If we include in the rule the comparison of Wisconsin laws to DLA Codes/ACD codes, could we streamline state law further and reference the rule rather than language like the language used in a. and b. above?

#### SECOND QUESTION

There are a number of sections where the draft indicates the court shall revoke or suspend a person "who is a licensee under this chapter or a resident" and in other sections, the draft indicates "The record of conviction forwarded to the department [from the court] shall state whether the offender was a licensee under this chapter or a resident at the time of the offense,..."

This approach would be additional work for the courts. Is it necessary to take this approach? Or, could we leave the court authority as it stands now and indicate in the law that the department will forward the court dispositions to the state of licensure/residency -- i.e. the department will handle the sorting out of licensed by/resident of.

Because these questions affect so many parts of the draft, we thought it would be useful to forward them to Aaron now. We are not expecting him to use them to create a new draft (at least not yet). We'd like his responses to help us think about the current draft.

Thanks,  
Anna