



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 06 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.

1 SECTION 117. 343.38 (4) (a) of the statutes is repealed.

2 SECTION 118. 343.38 (4) (b) of the statutes is repealed.

3 SECTION 119. 343.39 (1) (a) of the statutes is amended to read:

4 343.39 (1) (a) When, in the case of a suspended operating privilege, the period
5 of suspension has terminated, the reinstatement fee specified in s. 343.21 (1) (j) has
6 been paid to the department and, for reinstatement of ~~an~~ the operating privilege of
7 a resident suspended under ch. 344, the person files with the department proof of
8 financial responsibility, if required, in the amount, form and manner specified under
9 ch. 344.

10 SECTION 120. 343.39 (2) of the statutes is amended to read:

11 343.39 (2) Whenever a person's operating privilege is automatically reinstated,
12 the department shall forthwith notify such person thereof ~~and shall return any~~
13 ~~surrendered and unexpired license in its possession.~~ If the person's license expired
14 during the period of revocation or suspension, such person may renew the license at
15 the standard renewal fee at any time within 30 days after the reinstatement of the
16 operating privilege. If the person states to the department that he or she no longer
17 possesses the license because the license was surrendered to a court, and the person
18 has satisfied all requirements under sub. (1), including, if applicable, payment of the
19 reinstatement fee required under sub. (1) (a), the department shall issue a new
20 license without any additional fee for the license.

21 SECTION 121. 343.44 (1) (a) of the statutes is amended to read:

22 343.44 (1) (a) *Operating while suspended.* No person whose operating privilege
23 has been duly suspended under the laws of this state or, if the person is not a resident,
24 under the laws of the person's home jurisdiction, may operate a motor vehicle upon
25 any highway in this state during the period of suspension or in violation of any

1 restriction on an occupational license issued to the person during the period of
2 suspension. A person's knowledge that his or her operating privilege is suspended
3 is not an element of the offense under this paragraph. In this paragraph, "restriction
4 on an occupational license" means restrictions imposed under s. 343.10 (5) (a) as to
5 hours of the day, area, routes or purpose of travel, vehicles allowed to be operated,
6 use of an ignition interlock device, sobriety or use of alcohol, controlled substances
7 or controlled substance analogs.

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

9 343.44 (1) (b) *Operating while revoked.* No person whose operating privilege
10 has been duly revoked under the laws of this state or, if the person is not a resident,
11 under the laws of the person's home jurisdiction, may knowingly operate a motor
12 vehicle upon any highway in this state during the period of revocation or in violation
13 of any restriction on an occupational license issued to the person during the period
14 of revocation. In this paragraph, "restriction on an occupational license" means
15 restrictions imposed under s. 343.10 (5) (a) as to hours of the day, area, routes or
16 purpose of travel, vehicles allowed to be operated, use of an ignition interlock device,
17 sobriety or use of alcohol, controlled substances or controlled substance analogs.

18 **SECTION 123.** 343.44 (1) (c) of the statutes, as affected by 2003 Wisconsin Act
19 33, is amended to read:

20 343.44 (1) (c) *Operating while ordered out-of-service.* No person may operate
21 a commercial motor vehicle while the person or the commercial motor vehicle is
22 ordered out-of-service under the law of this state or another jurisdiction ~~or Mexico~~
23 or under federal law.

24 **SECTION 124.** 343.44 (2) (am) of the statutes is amended to read:

1 343.44 (2) (am) Any person who violates sub. (1) (b) before May 1, 2002, may
2 be required to forfeit not more than \$600, except that, if the person has been
3 convicted of a previous violation of sub. (1) (b), ~~or of operating a motor vehicle in~~
4 ~~violation of s. 343.44 (1), 1997 stats., with an operating privilege that is revoked,~~
5 within the preceding 5-year period, the penalty under par. (b) shall apply.

6 **SECTION 125.** 343.44 (2r) of the statutes is amended to read:

7 343.44 (2r) PRIOR CONVICTIONS. For purposes of determining prior convictions
8 under this section, the 5-year period shall be measured from the dates of the
9 violations that resulted in the convictions and each conviction under sub. (2) shall
10 be counted. Convictions of s. 343.44 (1), 1997 stats., ~~other than for operating a~~
11 ~~commercial motor vehicle while ordered out-of-service~~ under the law of another
12 jurisdiction or Mexico for offenses therein which, if committed in this state, would
13 have been violations of this section shall be counted under this section as prior
14 convictions.

***NOTE: In response to the DOT note, the DOT suggested change would make a significant change to the statute to omit as prior violations operating while ordered out-of-service. Is this the intent? (If so, is this consistent with the severe penalty for operating while ordered out-of-service?) Or is the intent to "clean up" the now outdated references to the 1997 stats. I have assumed the intent is merely to clean up the outdated references, and have made a similar change in s. 343.44 (2) (am). Please advise if my assumption is incorrect.

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

16 343.44 (2s) CITATIONS. Within 30 days after receipt by the department of a
17 report from a law enforcement officer under s. 343.305 (7) or a court order under s.
18 343.28 of a violation committed by a person operating a commercial motor vehicle
19 while subject to an out-of-service order under s. 343.305 (7) (b) or (9) (am), a traffic
20 officer employed under s. 110.07 may prepare a uniform traffic citation under s.
21 345.11 for a violation of sub. (1) (c) or (d) and serve it on the person. The citation may

1 be served anywhere in this state and shall be served by delivering a copy to the
2 person personally or by leaving a copy at the person's usual place of abode with a
3 person of discretion residing therein or by mailing a copy to the person's last-known
4 residence address, including, if the person is not a resident, an address in another
5 jurisdiction. The venue for prosecution may be the county where the alleged offense
6 occurred or, if the person is a resident, in the person's county of residence.

7 SECTION 127. 343.44 (4r) of the statutes is amended to read:

8 343.44 (4r) VIOLATION OF OUT-OF-SERVICE ORDER. In addition to other penalties
9 for violation of this section, if a person has violated this section after ~~he or she~~ the
10 person or the commercial motor vehicle operated by the person was ordered
11 out-of-service under the law of this state or another jurisdiction or Mexico or under
12 federal law, the violation shall result in disqualification under s. 343.315 (2) (h) or
13 (i).

14 SECTION 128. 343.50 (8) (b) of the statutes is amended to read:

15 343.50 (8) (b) The department may not disclose any record or other information
16 concerning or relating to an applicant or identification card holder to any person
17 other than a court, district attorney, county corporation counsel, city, village, or town
18 attorney, law enforcement agency, driver licensing agency of another jurisdiction or
19 Mexico, the applicant or identification card holder or, if the applicant or
20 identification card holder is under 18 years of age, his or her parent or guardian.
21 Except for photographs ~~disclosed to a law enforcement agency~~ for which disclosure
22 is authorized under s. 343.237, persons entitled to receive any record or other
23 information under this paragraph shall not disclose the record or other information
24 to other persons or agencies. This paragraph does not prohibit the disclosure of a
25 person's name or address, of the name or address of a person's employer or of

1 financial information that relates to a person when requested under s. 49.22 (2m) by
2 the department of workforce development or a county child support agency under s.
3 59.53 (5).

****NOTE: In response to the DOT comment and suggested change, I have made the change but the change was not made in the "1" draft because it expands the scope of disclosure. Under the "1" draft, photos could be disclosed to the driver licensing agency of another state but that agency could not further disclose the photo. DOT's suggested change lifts this restriction on the driver licensing agency of another state with respect to further disclosure of the photo. Please let me know if this change is not what you want.

insert
60-3 →

4 SECTION 129. 344.02 (3) of the statutes is amended to read:

5 344.02 (3) Upon completion of the hearing, the department shall make findings
6 of fact, conclusions of law, and a decision, and shall, as provided in this chapter, either
7 proceed to order suspension of the person's operating privilege, or registrations, or
8 both, and may also order the impoundment of the person's motor vehicle, in
9 accordance with s. 344.14, or upon good cause appearing therefor, shall terminate the
10 proceedings.

11 SECTION 130. 344.08 (1m) of the statutes is created to read:

12 344.08 (1m) Notwithstanding sub. (1), ~~if this state is a party to an agreement~~
13 ~~under s. 343.02 (3) (a),~~ the secretary may ^{only} ~~not~~ suspend the operating privilege of a
14 nonresident for an offense specified in sub. (1) if the offense is ^{not} identified in the rules
15 under s. 343.02 (3) (b).

insert
60-4

16 SECTION 131. 344.13 (2) of the statutes is amended to read:

17 344.13 (2) The secretary shall determine the amount of security required to be
18 deposited by each person on the basis of the accident reports or other information
19 submitted. In addition to the accident reports required by law, the secretary may
20 request from any of the persons, including passengers and pedestrians, involved in
21 such accident such further information, sworn statements or other evidence relating
22 to property damage, personal injury or death in motor vehicle accidents as deemed

1 necessary to aid in determining the amount to be deposited as security under s.
2 344.14. ~~Failure~~ Subject to s. 344.14 (1r), failure of a person to comply with such
3 request is grounds for suspending such person's operating privilege but no
4 suspension shall be made on such grounds until one follow-up request has been
5 made and at least 20 days have elapsed since the mailing of the first request.

6 **SECTION 132.** 344.14 (1r) of the statutes is created to read:

7 344.14 (1r) Notwithstanding sub. (1), ~~if this state is a party to an agreement~~
8 ~~under s. 343.02 (3) (a), the secretary may~~ ^{only} ~~not~~ suspend under sub. (1) or under s.
9 344.13 (2) the operating privilege of a nonresident for, respectively, an offense
10 specified in sub. (1) or s. 344.13 (2) ^{not} if the offense is identified in the rules under s.
11 343.02 (3) (b).

12 **SECTION 133.** 344.18 (1m) (a) of the statutes is amended to read:

13 344.18 (1m) (a) Unless 3 years have elapsed since the date that a requirement
14 under sub. (1) (a), (b), (c) or (d) has been met or unless the person is a nonresident,
15 the person whose operating privilege or registration was suspended or revoked
16 under s. 344.14 shall file with the department and maintain in effect proof of
17 financial responsibility in the amount, form and manner specified in this chapter.

18 **SECTION 134.** 344.18 (3m) (a) of the statutes is amended to read:

19 344.18 (3m) (a) Unless 3 years have elapsed since the date that a requirement
20 under sub. (3) (a) or (b) has been met or unless the person is a nonresident, the person
21 whose operating privilege or registration was suspended or revoked under sub. (3)
22 shall file with the department and maintain in effect proof of financial responsibility
23 in the amount, form and manner specified in this chapter.

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

1 344.19 (1) If the operator or the owner of a motor vehicle involved in an accident
2 within this state has no license or registration, whether because the operator or
3 owner is a nonresident or because the operator or owner is a resident who has failed
4 or neglected to obtain a license or registration in this state, the operator or owner
5 shall not be allowed a license or registration until the operator or owner has complied
6 with the requirements of this chapter to the same extent as would be necessary if,
7 at the time of the accident, the operator or owner had held a license and registration
8 in this state. Nothing in this subsection requires the department to maintain an
9 operator's record with respect to a nonresident except as provided in s. 343.23. (2m) ✓

10 **SECTION 136.** 344.19 (2) of the statutes is renumbered 344.19 (2) (intro.) and
11 amended to read:

12 344.19 (2) (intro.) If the operating privilege or registration of a nonresident is
13 suspended under s. 344.14, the secretary shall transmit a certified copy of the record
14 of such action as follows:

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

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

23 344.19 (2) (a) With respect to the operating privilege suspension, as provided
24 in s. 343.36 (3) ✓

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

1 344.19 (3) Upon receipt of such certification from another state to the effect
2 that the operating privilege or registration of a resident of this state has been
3 suspended or revoked in such other state under a law providing for its suspension
4 or revocation for failure to deposit security for payment of judgments arising out of
5 a motor vehicle accident, under circumstances which would require the secretary to
6 suspend a ~~nonresident's~~ person's operating privilege or registration had the accident
7 occurred in this state, ~~or if this state is a party to an agreement under s. 343.02 (3)~~
8 (a) upon notice of circumstances occurring in another jurisdiction or Mexico
9 substantially similar to those described in s. 344.14 if suspension of an operating
10 privilege under circumstances substantially similar to those described in s. 344.14
11 is an offense identified in the rules under s. 343.02 (3) (b), the secretary shall suspend
12 the operating privilege of such resident if he or she was the operator and all of his
13 or her registrations if he or she was the owner of a motor vehicle involved in such
14 accident. The department may accept a certification which is in the form of a
15 combined notice of required security and suspension order, but shall not suspend a
16 resident's operating privilege or registration on the basis of such order until at least
17 30 days have elapsed since the time for depositing security in the other state expired.
18 A suspension or revocation of operating privilege under this section shall continue
19 until such resident furnishes evidence of his or her compliance with the law of the
20 other state relating to the deposit of security, pays the fee required under s. 343.21
21 (1) (j) and complies with the applicable provisions of s. 343.38. A suspension or
22 revocation of registration under this section shall continue until such resident
23 furnishes evidence of his or her compliance with the law of the other state relating
24 to the deposit of security, pays the fee required under s. 341.36 (1m) and satisfies the
25 requirements of sub. (3m).

Insert
63-25

1 SECTION 139. 344.24 of the statutes is amended to read:

2 344.24 Applicability of sections relating to proof of financial
 3 responsibility for the future. Sections 344.29 to 344.41 are applicable in all cases
 4 in which a person is required to deposit proof of financial responsibility for the future,
 5 including those cases in which a person is required to deposit proof of financial
 6 responsibility for the future under ss. 344.25 to 344.27, those cases in which the
 7 deposit of proof of financial responsibility for the future is a condition precedent to
 8 reinstatement of an operating privilege or registration suspended or revoked under
 9 s. 344.14, 344.18 (3) or 344.19 (3) and those cases in which the deposit of proof of
 10 financial responsibility for the future is a condition precedent to issuance of an
 11 operator's license under s. 343.38 (4) or reinstatement of an operating privilege
 12 revoked under ch. 343.

****NOTE: In response to the DOT note, I understand that the suggested change is to strike the whole last phrase "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." I can make this change, but I cannot make it piecemeal. The statutes specify under s. 343.38 (1) (c) that proof of financial responsibility is required. Do you want me to make the suggested change and repeal s. 343.38 (1) (c)?

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

14 344.25 (7) Notwithstanding sub. (5), if this state is a party to an agreement
 15 under s. 343.02 (3) (a), the secretary shall ^{only} suspend the operating privilege of a
 16 nonresident if operating privilege suspension under circumstances substantially
 17 similar to those described in this subchapter is ^{not} identified in the rules under s. 343.02
 18 (3) (b).

19 SECTION 141. 344.26 (1) of the statutes is amended to read:

20 344.26 (1) Subject to the exceptions stated in ss. 344.25 (2) and 344.27 (2), any
 21 operating privilege or registration suspended or revoked under s. 344.25 shall

Handwritten notes: "6/4/16" and "6/4/16" with arrows pointing to lines 14 and 15.

1 remain suspended or revoked until every judgment mentioned in s. 344.25 is stayed,
2 satisfied, or discharged and, unless 3 years have elapsed since the date on which the
3 judgment was stayed, satisfied, or discharged or unless the person is a nonresident,
4 until the person whose operating privilege and registration was suspended or
5 revoked furnishes and maintains in effect proof of financial responsibility for the
6 future.

7 **SECTION 142.** 344.27 (2) of the statutes is amended to read:

8 344.27 (2) The secretary shall not suspend the operating privilege or
9 registration and shall restore any operating privilege or registration suspended
10 following nonpayment of a judgment when the judgment debtor obtains such order
11 permitting the payment of the judgment in installments and, unless 3 years have
12 elapsed since the date on which the order permitting the payment of the judgment
13 in installments is filed with the secretary or unless the judgment debtor is a
14 nonresident, furnishes and maintains proof of financial responsibility for the future.

15 **SECTION 143.** 344.27 (3) of the statutes is amended to read:

16 344.27 (3) If the judgment debtor fails to pay any installment as specified by
17 such order, the secretary, upon notice of such default, shall immediately suspend the
18 operating privilege, if permitted under this subchapter, and registrations of the
19 judgment debtor until such judgment is satisfied as provided in s. 344.26.

20 **SECTION 144.** 344.29 of the statutes is amended to read:

21 **344.29 Proof of financial responsibility for the future required.** Proof
22 of financial responsibility for the future shall be furnished by any person required
23 to give such proof under ss. 344.25 to 344.27, those cases in which the deposit of proof
24 of financial responsibility for the future is a condition precedent to reinstatement of
25 an operating privilege or registration suspended or revoked under s. 344.14, 344.18

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

~~***NOTE: See note following amended s. 344.24~~

5 SECTION 145. 344.30 (1) of the statutes is amended to read:

6 344.30 (1) Certification of insurance as provided in s. 344.31 or 344.32; or

7 SECTION 146. 344.32 of the statutes is repealed.

8 SECTION 147. 344.33 (1) of the statutes is amended to read:

9 344.33 (1) CERTIFICATION. In this chapter, "motor vehicle liability policy" means
10 a motor vehicle policy of liability insurance, certified as provided in s. 344.31 or
11 344.32 as proof of financial responsibility for the future, and issued, except as
12 otherwise provided in s. 344.32, by an insurer authorized to do an automobile
13 liability business in this state to or for the benefit of the person named in the policy
14 as the insured.

15 SECTION 148. 344.34 of the statutes is amended to read:

16 344.34 Notice of cancellation or termination of certified policy. When
17 an insurer has certified a motor vehicle liability policy under s. 344.31, a policy under
18 s. 344.32 or a bond under s. 344.36, the insurance so certified shall not be canceled
19 or terminated until at least 10 days after a notice of cancellation or termination of
20 the insurance so certified has been filed in the office of the secretary. No insurance
21 so certified may be canceled or terminated by the insurer prior to the expiration of
22 90 days from the effective date of the certification on the grounds of failure to pay a
23 premium when due. Such a certified policy or bond subsequently procured shall, on
24 the effective date of its certification, terminate the insurance previously certified.

1 Any certification or recertification filed by the same insurer following cancellation
2 shall be accompanied by a fee of \$3 payable by the insurer.

3 **SECTION 149.** 344.42 of the statutes is amended to read:

4 **344.42 Submission of certifications and recertifications by insurers.**

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

11 **SECTION 150.** 345.23 (2) (c) of the statutes is amended to read:

12 345.23 (2) (c) Deposits the person's valid Wisconsin operator's license with the
13 officer. If the license is deposited with the officer, the officer shall issue to the licensee
14 a receipt which shall be valid as a driver's license through the date specified on the
15 receipt, which shall be the same as the court appearance date, and the officer shall,
16 at the earliest possible time prior to the court appearance date, deposit the license
17 with the court.

****NOTE: In response to the DOT note regarding bill sections 151 to 153 of the "1"
draft, these changes are not part of the "surrender/take possession issue" in the draft.
All that these changes do is allow the deposit of any state's license, not just a WI license.
My understanding of the drafting instructions is that part of the DLA involves giving
nonresidents stopped for traffic violations in WI the same opportunities for speedy and
convenient resolution as are available to WI residents. (See DLA version Feb. 2004,
General Purpose, item 7.) I am leaving this provision unchanged unless I receive further
instructions.

18 **SECTION 151.** 345.28 (5) (b) 1. of the statutes is amended to read:

19 345.28 (5) (b) 1. If a person fails to respond to the notices under par. (a) within
20 the time specified in the notice, a warrant that substantially complies with the
21 mandatory provisions under s. 968.04 (3) (a) may be issued for the person, except that

1 the warrant shall direct the officer to accept the person's deposit of money or his or
2 her valid Wisconsin operator's license, as provided under subd. 2. a., in lieu of serving
3 the warrant and arresting the person.

4 **SECTION 152.** 345.28 (5) (b) 2. a. of the statutes is amended to read:

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

21 **SECTION 153.** 345.47 (1) (intro.) of the statutes is amended to read:

22 345.47 (1) (intro.) If the defendant is found guilty, the court may enter
23 judgment against the defendant for a monetary amount not to exceed the maximum
24 forfeiture provided for the violation, plus costs, fees, and surcharges imposed under

1 ch. 814, and, in addition, may suspend or revoke his or her operating privilege under
2 as provided in s. 343.30. If the judgment is not paid, the court shall order:

3 **SECTION 154.** 345.47 (1) (b) of the statutes is amended to read:

4 345.47 (1) (b) In lieu of imprisonment and in addition to any other suspension
5 or revocation, that the defendant's operating privilege be suspended. The operating
6 privilege shall be suspended for 30 days or until the person pays the forfeiture, plus
7 costs, fees, and surcharges imposed under ch. 814, but not to exceed 2 years.
8 Suspension under this paragraph shall not affect the power of the court to suspend
9 or revoke under s. 343.30 or the power of the secretary to suspend or revoke the
10 operating privilege. This paragraph does not apply if the judgment was entered
11 solely for violation of an ordinance unrelated to the violator's operation of a motor
12 vehicle or if this state is a party to an agreement under s. 343.02 (3) (a), the defendant
13 is a nonresident, and operating privilege suspension under circumstances
14 substantially similar to those described under this paragraph is identified in the
15 rules under s. 343.02 (3) (b).

16 **SECTION 155.** 345.47 (1) (c) of the statutes is amended to read:

17 345.47 (1) (c) If a court or judge suspends an operating privilege under this
18 section, the court or judge ~~shall immediately~~ may take possession of, and if
19 possession is taken, shall destroy, the suspended license and the court or judge shall
20 forward it to the department together with the notice of suspension, which shall
21 clearly state that the suspension was for failure to pay a forfeiture, plus costs, fees,
22 and surcharges imposed under ch. 814. The notice of suspension ~~and the suspended~~
23 ~~license, if it is available,~~ shall be forwarded to the department within 48 hours after
24 the order of suspension. If the forfeiture, plus costs, fees, and surcharges imposed
25 under ch. 814, are paid during a period of suspension, the court or judge shall

1 immediately notify the department. ~~Upon receipt of the notice and payment of the~~
2 ~~reinstatement fee under s. 343.21 (1) (j), the department shall return the~~
3 ~~surrendered license.~~

4 **SECTION 156.** 345.48 (2) of the statutes is amended to read:

5 345.48 (2) If the defendant is found guilty of a traffic violation for which
6 revocation of his or her operating privilege is mandatory under s. 343.31, or for which
7 the court revokes or suspends his or her operating privilege under s. 343.30, the court
8 ~~shall immediately~~ may take possession of, and if possession is taken, shall destroy,
9 the suspended or revoked license. The revocation or suspension is effective
10 immediately. The court ordered suspension or revocation shall be included as part
11 of the report of conviction under sub. (1m).

12 **SECTION 157.** 345.48 (3) of the statutes is repealed.

13 **SECTION 158.** 345.48 (4) of the statutes is amended to read:

14 345.48 (4) If notice of appeal is filed the court shall, within 5 working days after
15 it is filed, forward to the department a certificate stating that a notice of appeal has
16 been filed ~~and shall return any surrendered license.~~ Thereafter, the court shall
17 notify the department as required under s. 343.325 (1) (b) and (c).

18 **SECTION 159.** 346.63 (2m) of the statutes is amended to read:

19 346.63 (2m) If a person has not attained the legal drinking age, as defined in
20 s. 125.02 (8m), the person may not drive or operate a motor vehicle while he or she
21 has an alcohol concentration of more than 0.0 but not more than 0.08. One penalty
22 for violation of this subsection is suspension of a person's operating privilege ~~under~~
23 as provided in s. 343.30 (1p) and (5) (b). The person is eligible for an occupational
24 license under s. 343.10 at any time. If a person arrested for a violation of this
25 subsection refuses to take a test under s. 343.305, the refusal is a separate violation

as affected by 2005 Wisconsin Act 149

1 and the person is subject to revocation of the person's operating privilege under as
2 provided in s. 343.305 (10) (em).

3 SECTION 160. 346.65 (2c) of the statutes is amended to read:

4 346.65 (2c) ^{plain} In sub. (2) ^{(am) 20, 20, 4, and 50} ~~(b) to (e)~~, the time period shall be measured from the
5 dates of the refusals or violations that resulted in the revocation or convictions. If
6 a person has a suspension, revocation or conviction for any offense under a local
7 ordinance or a state statute of another state jurisdiction or Mexico that would be
8 counted under s. 343.307 (1), that suspension, revocation or conviction shall count
9 as a prior suspension, revocation or conviction under sub. (2) ~~(b) to (e)~~.

APS: please w/ proof Act 149

10 SECTION 161. 346.65 (2e) of the statutes is amended to read:

11 346.65 (2e) If the court determines that a person does not have the ability to
12 pay the costs and fine or forfeiture imposed under sub. (2) ^{plain} ~~(a), (b), (c), (d), (e)~~, (f) or
13 (g), the court may reduce the costs, fine and forfeiture imposed and order the person
14 to pay ^{delete str.} toward the cost of ^{plain} the ~~any~~ assessment and driver safety plan imposed under
15 s. 343.30 (1q) (c), ^{if applicable} the difference between the amount of the reduced costs and fine or
16 forfeiture and the amount of costs and fine or forfeiture imposed under sub. (2) ~~(a)~~,
17 ^(am) ~~(b), (c), (d), (e)~~, (f) or (g).

18 SECTION 162. 346.65 (2u) (c) of the statutes is amended to read:

19 346.65 (2u) (c) If a person arrested for a violation of s. 346.63 (7) refuses to take
20 a test under s. 343.305, the refusal is a separate violation and the person is subject
21 to revocation of the person's operating privilege under as provided in s. 343.305 (10)
22 (em).

23 SECTION 163. 346.65 (6) (a) 1. of the statutes is amended to read:

24 346.65 (6) (a) 1. The court may order a law enforcement officer to seize the
25 motor vehicle used in the violation or improper refusal and owned by the person

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

***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. 346.65 (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. 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?

15 SECTION 164. 350.11 (3) (d) of the statutes is amended to read:

16 350.11 (3) (d) *Alcohol, controlled substances or controlled substance analogs;*
17 *assessment.* In addition to any other penalty or order, a person who violates s.
18 350.101 (1) or (2) or 350.104 (5) or who violates s. 940.09 or 940.25 if the violation
19 involves the operation of a snowmobile, shall be ordered by the court to submit to and
20 comply with an assessment by an approved public treatment facility for an

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if the nonresident is licensed in or a resident of another jurisdiction that is not a member jurisdiction or

1 examination of the person's use of alcohol, controlled substances or controlled
2 substance analogs. The assessment order shall comply with s. 343.30 (1q) (c) 1. a.
3 to e. Intentional failure to comply with an assessment ordered under this paragraph
4 constitutes contempt of court, punishable under ch. 785.

5 **SECTION 165.** 351.025 (3) of the statutes is created to read:

6 351.025 (3) Notwithstanding sub. (1), ~~if this state is a party to an agreement~~
7 ~~under s. 343.02 (3) (a),~~ the secretary may ~~not~~ ^{only} revoke the operating privilege of a
8 nonresident under sub. (1) if any offense necessary for a holding that the nonresident
9 is a habitual traffic offender or repeat habitual traffic offender is ^{not} an offense identified
10 in the rules under s. 343.02 (3) (b).

~~***NOTE: In response to the DOT note, please see note in this draft following amended s. 343.32 (2) (a).~~

11 **SECTION 166.** 631.37 (4) (e) of the statutes is amended to read:

12 631.37 (4) (e) *Motor vehicle liability policy.* Section 344.34 applies to motor
13 vehicle liability policies certified under s. 344.31 ~~and to policies certified under s.~~
14 ~~344.32.~~

15 **SECTION 167.** 767.303 (1m) of the statutes is created to read:

16 767.303 (1m) Notwithstanding sub. (1), if this state is a party to an agreement
17 under s. 343.02 (3) (a), the court may not suspend the operating privilege of a person
18 who is not a resident of this state if operating privilege suspension for failure to
19 comply under circumstances substantially similar to those described in sub. (1) is
20 identified in the rules under s. 343.02 (3) (b).

21 **SECTION 168.** 800.09 (1) (c) of the statutes is amended to read:

22 800.09 (1) (c) The court may suspend the defendant's operating privilege, as
23 defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments

1 and costs are paid, if the defendant has not done so within 60 days after the date the
2 restitution or payments or both are to be made under par. (a) and has not notified the
3 court that he or she is unable to comply with the judgment, as provided under s.
4 800.095 (4) (a), except that the suspension period may not exceed 2 years. The court
5 ~~shall~~ may take possession of, ~~and if possession is taken, shall destroy,~~ the suspended
6 license ~~and shall.~~ The court shall forward the license, along with a notice of the
7 suspension clearly stating that the suspension is for failure to comply with a
8 judgment of the court, to the department of transportation. This paragraph does not
9 apply if the forfeiture is assessed for violation of an ordinance that is unrelated to the
10 violator's operation of a motor vehicle or if this state is a party to an agreement under
11 s. 343.02 (3) (a), the defendant is not a resident of this state, and operating privilege
12 suspension for failure to comply under circumstances substantially similar to those
13 described in this subsection is identified in the rules under s. 343.02 (3) (b).

14 **SECTION 169.** 800.095 (4) (b) 4. of the statutes is amended to read:

15 800.095 (4) (b) 4. That the defendant's operating privilege, as defined in s.
16 340.01 (40), be suspended until the judgment is complied with, except that the
17 suspension period may not exceed 2 years. This subdivision does not apply if the
18 forfeiture is assessed for violation of an ordinance that is unrelated to the violator's
19 operation of a motor vehicle or if this state is a party to an agreement under s. 343.02
20 (3) (a), the defendant is not a resident of this state, and operating privilege
21 suspension for failure to comply under circumstances substantially similar to those
22 described in this paragraph is identified in the rules under s. 343.02 (3) (b).

23 **SECTION 170.** 909.02 (4) of the statutes is amended to read:

24 909.02 (4) CERTIFIED COPIES OF PUBLIC RECORDS. A copy of an official record or
25 report or entry therein, or of a document authorized by law to be recorded or filed and

1 actually recorded or filed in a public office, including data compilations in any form,
 2 certified as correct by the custodian or other person authorized to make the
 3 certification, by certificate complying with sub. (1), (2) or (3) or complying with any
 4 statute or rule adopted by the supreme court, or, with respect to records maintained
 5 under s. 343.23, certified electronically in any manner determined by the
 6 department of transportation to conform with the requirements of s. 909.01.

***NOTE: In response to the DOT note, I believe this provision achieves the intended result and I note that the analysis reflects this interpretation.

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as created by 2005 Wisconsin Act 20

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7 SECTION 171. 938.17 (2) (d) of the statutes is renumbered 938.17 (2) (d) 1. and
 8 amended to read:

9 938.17 (2) (d) 1. If a municipal court finds that the juvenile violated a municipal
 10 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that
 11 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2)
 12 or 961.575 (2), the court shall enter any of the dispositional orders permitted under
 13 s. 938.343 that are authorized under par. (cm). If a juvenile fails to pay the forfeiture
 14 imposed by the municipal court, the court may not impose a jail sentence but may
 15 suspend any license issued under ch. 29 for not less than 30 days nor more than 5
 16 years, or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for
 17 not more than 2 years. If a court suspends a license or privilege under this section,
 18 the court shall immediately take possession of the applicable license and forward it
 19 if issued under ch. 29 or, if the license is issued under ch. 343, the court may take
 20 possession of, and if possession is taken, shall destroy, the license. The court shall
 21 forward to the department that issued the license, ~~together with~~ the notice of
 22 suspension clearly stating that the suspension is for failure to pay a forfeiture
 23 imposed by the court, together with any license issued under ch. 29 of which the court

1 takes possession. If the forfeiture is paid during the period of suspension, the court
 2 shall immediately notify the department, which shall thereupon, if the license is
 3 issued under ch. 29, return the license to the person.

4 **SECTION 172.** 938.17 (2) (d) 2. of the statutes is created to read:

5 938.17 (2) (d) 2. Notwithstanding subd. 1., if this state is a party to an
 6 agreement under s. 343.02 (3) (a), the court may not suspend the operating privilege
 7 of a juvenile who is not a resident of this state if operating privilege suspension for
 8 failure to comply under circumstances substantially similar to those described in
 9 subd. 1. is identified in the rules under s. 343.02 (3) (b).

10 **SECTION 173.** 938.34 (8) of the statutes is ~~renumbered 938.34 (8) (a) and~~
 11 amended to read:

12 938.34 (8) (a) Impose a forfeiture based upon a determination that this
 13 disposition is in the best interest of the juvenile and ^{the juveniles} ~~in aid of~~ rehabilitation. The
 14 maximum forfeiture that the court may impose under this ~~subsection~~ ^{delete strike plain} paragraph for
 15 a violation by a juvenile is the maximum amount of the fine that may be imposed on
 16 an adult for committing that violation or, if the violation is applicable only to a person
 17 under 18 years of age, \$100. ~~Any such~~ ^{The} order shall include a finding that the juvenile
 18 alone is financially able to pay the forfeiture and shall allow up to 12 months for
 19 payment. If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture
 20 and order other alternatives under this section, ~~in accordance with the conditions~~
 21 ~~specified in this chapter~~; or the court may suspend any license issued under ch. 29
 22 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating
 23 privilege, as defined in s. 340.01 (40), for not more than 2 years. If the court suspends
 24 any license under this ~~subsection~~ ^{delete strike plain} paragraph, the clerk of the court shall immediately
 25 take possession of the suspended license and forward it if issued under ch. 29 or, if

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as affected by 2005 Wisconsin Act

344
Assembly
Bill 1133

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1 the license is issued under ch. 343, the court may take possession of, and if possession
 2 is taken, shall destroy, the license. The court shall forward to the department which
 3 issued the license, ~~together with~~ a notice of suspension ~~clearly~~ stating that the
 4 suspension is for failure to pay a forfeiture imposed by the court, together with any
 5 license issued under ch. 29 of which the court takes possession. If the forfeiture is
 6 paid during the period of suspension, the suspension shall be reduced to the time
 7 period which has already elapsed and the court shall immediately notify the
 8 department which shall then, if the license is issued under ch. 29, return the license
 9 to the juvenile. Any recovery under this ~~subsection~~ ~~paragraph~~ shall be reduced by
 10 the amount recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

11 **SECTION 174.** 938.34 (8) (b) of the statutes is created to read:
 12 938.34 (8) (b) Notwithstanding par. (a), if this state is a party to an agreement
 13 under s. 343.02 (3) (a), the court may not suspend the operating privilege of a juvenile
 14 who is not a resident of this state if operating privilege suspension for failure to
 15 comply under circumstances substantially similar to those described in par. (a) is
 16 identified in the rules under s s. 343.02 (3) (b).

17 **SECTION 175.** 938.34 (8d) (d) of the statutes is ~~renumbered~~ 938.34 (8d) (d) 1.
 18 and amended to read: *as affected by 2005 Wisconsin Act 344 Assembly Bill 4931*

19 938.34 (8d) (d) 1. If the juvenile fails to pay the surcharge under par. (a), the
 20 court may vacate the surcharge and order other alternatives under this section, in
 21 accordance with the conditions specified in this chapter; or the court may suspend
 22 any license issued under ch. 29 for not less than 30 days nor more than 5 years, or
 23 suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not less
 24 than 30 days nor more than 5 years. If the court suspends any license under this
 25 ~~subsection~~ ~~paragraph~~, the clerk of the court shall immediately take possession of the

1 suspended license ~~and forward it~~ if issued under ch. 29 or, if the license is issued
 2 under ch. 343, the court may take possession of, and if possession is taken, shall
 3 destroy, the license. The court shall forward to the department which issued the
 4 license, ~~together with~~ a notice of suspension clearly stating that the suspension is for
 5 failure to pay a surcharge imposed by the court, together with any license issued
 6 under ch. 29 of which the court takes possession. If the surcharge is paid during the
 7 period of suspension, the suspension shall be reduced to the time period which has
 8 already elapsed and the court shall immediately notify the department which shall
 9 then, if the license is issued under ch. 29, return the license to the juvenile.

10 **SECTION 176.** 938.34 (8d) (d) 2. of the statutes is created to read:

11 938.34 (8d) (d) 2. Notwithstanding subd. 1., if this state is a party to an
 12 agreement under s. 343.02 (3) (a), the court may not suspend the operating privilege
 13 of a juvenile who is not a resident of this state if operating privilege suspension for
 14 failure to comply under circumstances substantially similar to those described in
 15 subd. 1. is identified in the rules under s. 343.02 (3) (b).

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16 → **SECTION 177.** 938.34 (14m) of the statutes is renumbered 938.34 (14m) (a) and
 17 amended to read:

18 938.34 (14m) (a) Restrict or suspend the operating privilege, as defined in s.
 19 340.01 (40), of a juvenile who is adjudicated delinquent under a violation of any law
 20 in which a motor vehicle is involved. If the court suspends a juvenile's operating
 21 privilege under this subsection ~~paragraph~~, the court shall immediately may take
 22 possession of, and if possession is taken, shall destroy, the suspended license and
 23 forward it. The court shall forward to the department of transportation together
 24 with a notice stating the reason for and duration of the suspension. If the court limits

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1 a juvenile's operating privilege under this subsection paragraph, the court shall
2 immediately notify the department of transportation of that limitation.

3 **SECTION 178.** 938.34 (14m) (b) of the statutes is created to read:
4 938.34 (14m) (b) Notwithstanding par. (a), if this state is a party to an
5 agreement under s. 343.02 (3) (a), the court may not restrict or suspend the operating
6 privilege of a juvenile who is not a resident of this state on the basis of any violation
7 specified in par. (a) that is an offense identified in the rules under s. 343.02 (3) (b).
8 **SECTION 179.** 938.34 (14q) of the statutes is renumbered 938.34 (14q) (a).
9 **SECTION 180.** 938.34 (14q) (b) of the statutes is created to read:
10 938.34 (14q) (am) Notwithstanding par. (a), if this state is a party to an
11 agreement under s. 343.02 (3) (a), the court may not suspend the operating privilege
12 of a juvenile who is not a resident of this state if a violation of ch. 961 is an offense
13 identified in the rules under s. 343.02 (3) (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.

14 **SECTION 181.** 938.34 (14r) (a) of the statutes *is* amended to read: *344*
15 938.34 (14r) (a) In addition to any other dispositions imposed under this
16 section, if the juvenile is found to have violated ch. 961, the court shall suspend the
17 juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 6 months
18 nor more than 5 years. The court shall immediately may take possession of, and if
19 possession is taken, shall destroy, any suspended license and forward it. The court
20 shall forward to the department of transportation together with the notice of
21 suspension clearly stating that the suspension or revocation is for a violation of ch.
22 961.

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23 **SECTION 182.** 938.34 (14r) (am) of the statutes is created to read:

1 938.34 (14r) (am) Notwithstanding par. (a), if this state is a party to an
 2 agreement under s. 343.02 (3) (a), the court may not suspend the operating privilege
 3 of a juvenile who is not a resident of this state if the violation specified in par. (a) is
 4 an offense identified in the rules under s. 343.02 (3) (b).

5 SECTION 183. 938.342 (1g) (a) of the statutes is amended to read:

6 938.342 (1g) (a) Suspend the person's operating privilege, as defined in s.
 7 340.01 (40), for not less than 30 days nor more than one year. The court shall
 8 immediately may take possession of, and if possession is taken, shall destroy, the
 9 suspended license and forward it. The court shall forward to the department of
 10 transportation together with a notice stating the reason for and duration of the
 11 suspension.

as affected by 2005 Wisconsin Act 344 Assembly Bill 1057

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

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FORFEITURE

14 938.343 (2) (a) Impose a forfeiture not to exceed the maximum forfeiture that
 15 may be imposed on an adult for committing that violation or, if the violation is only
 16 applicable to a person under 18 years of age, \$50. ~~Any such~~ *The* order shall include a
 17 finding that the juvenile alone is financially able to pay and shall allow up to 12
 18 months for the payment. If a juvenile fails to pay the forfeiture, the court may
 19 suspend any license issued under ch. 29 or suspend the juvenile's operating privilege,
 20 as defined in s. 340.01 (40), for not more than 2 years. The court shall immediately
 21 take possession of the suspended license and forward it if issued under ch. 29 or, if
 22 the license is issued under ch. 343, the court may take possession of, and if possession
 23 is taken, shall destroy, of the license. The court shall forward to the department
 24 which issued the license, ~~together with~~ *clearly* stating that
 25 the suspension is for failure to pay a forfeiture imposed by the court, together with

1 any license issued under ch. 29 of which the court takes possession. If the forfeiture
 2 is paid during the period of suspension, the court shall immediately notify the
 3 department, which ^{shall} ~~will~~ thereupon, if the license is issued under ch. 29, return the
 4 license to the person. Any recovery under this ~~subsection~~ ^{to delete strike plain} ~~paragraph~~ shall be reduced
 5 by the amount recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

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

7 938.343 (2) (b) Notwithstanding par. (a), if this state is a party to an agreement
 8 under s. 343.02 (3) (a), the court may not suspend the operating privilege of a juvenile
 9 who is not a resident of this state if operating privilege suspension for failure to
 10 comply under circumstances substantially similar to those described in par. (a) is
 11 identified in the rules under s. 343.02 (3) (b).

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

13 938.344 (2e) (b) Whenever a court suspends a juvenile's operating privilege
 14 under this subsection, the court shall immediately may take possession of, and if
 15 possession is taken, shall destroy, any suspended license and forward it. The court
 16 shall forward to the department of transportation, ~~together with~~ the notice of
 17 suspension ~~clearly~~ stating that the suspension is for a violation under s. 961.573 (2),
 18 961.574 (2) or 961.575 (2), or a local ordinance that strictly conforms to one of those
 19 statutes.

20 ^{Please fix comp.} **SECTION 187.** 938.355 (6) (d) 2. of the statutes is ~~renumbered 938.355 (6) (d) 2.~~

21 ~~a.~~ ^{a.} and amended to read:

22 938.355 (6) (d) 2. ^{a.} Suspension of or ~~limitation~~ restriction on the use of the
 23 juvenile's operating privilege, as defined under s. 340.01 (40), or of any approval
 24 issued under ch. 29 for a period of not more than 3 years. If the juvenile does not hold
 25 a valid operator's license under ch. 343, other than an instruction permit under s.

344
 as affected by 2005 Wisconsin Act Assembly Bill 1143

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1 343.07 or a restricted license under s. 343.08, on the date of the order issued under
 2 this ~~subdivision subd. 2/a.~~, the court may order the suspension to begin on the date
 3 that the operator's license would otherwise be reinstated or issued after the juvenile
 4 applies and qualifies for issuance or 2 years after the date of the order issued under
 5 this ~~subdivision subd. 2/a.~~ whichever occurs first. If the court suspends the
 6 juvenile's operating privileges or an approval issued under ch. 29, the court shall
 7 immediately take possession of the suspended ~~license or approval and forward it~~ may
 8 take possession of, and if possession is taken, shall destroy, the suspended license.
 9 The court shall forward to the department that issued it, together with the license
 10 or approval the notice of suspension, together with any approval of which the court
 11 takes possession.

SECTION 188. 938.355 (6) (d) 2. b. of the statutes is created to read:

13 938.355 (6) (d) 2. b. Notwithstanding subd. 1. a., if this state is a party to an
 14 agreement under s. 343.02 (3) (a), the court may not suspend or restrict the operating
 15 privilege of a juvenile who is not a resident of this state if operating privilege
 16 suspension for failure to comply under circumstances substantially similar to those
 17 described in this paragraph is identified in the rules under s. 343.02 (3) (b).

SECTION 189. 938.355 (6m) (a) 1m. of the statutes is amended to read:

18 938.355 (6m) (a) 1m. Suspension or limitation on the use of the juvenile's
 19 operating privilege, as defined under s. 340.01 (40), or of any approval issued under
 20 ch. 29 for not more than one year. If the juvenile does not hold a valid operator's
 21 license under ch. 343, other than an instruction permit under s. 343.07 or a restricted
 22 license under s. 343.08, on the date of the order issued under this subdivision, the
 23 court may order the suspension or limitation to begin on the date that the operator's
 24 license would otherwise be reinstated or issued after the juvenile applies and
 25

1 qualifies for issuance or 2 years after the date of the order issued under this
 2 subdivision, whichever occurs first. If the court suspends a juvenile's operating
 3 privilege or an approval issued under ch. 29, the court shall immediately take
 4 possession of the suspended license or approval and forward it may take possession
 5 of, and if possession is taken, shall destroy, the suspended license. The court shall
 6 forward to the department that issued the license or approval with a notice stating
 7 the reason for and the duration of the suspension, together with any approval of
 8 which the court takes possession. *as affected by 2005 Wisconsin Act 344*

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

10 938.396 (4) *OPERATING PRIVILEGE RECORDS* When a court assigned to exercise jurisdiction under this chapter
 11 and ch. 48 or a municipal court exercising jurisdiction under s. 938.17 (2) revokes,
 12 suspends, or restricts a juvenile's operating privilege under this chapter, the
 13 department of transportation may not disclose information concerning or relating to
 14 the revocation, suspension, or restriction to any person other than a court assigned
 15 to exercise jurisdiction under this chapter and ch. 48, a municipal court exercising
 16 jurisdiction under s. 938.17 (2), a district attorney, county corporation counsel, or
 17 city, village, or town attorney, a law enforcement agency, a driver licensing agency
 18 of another jurisdiction or Mexico, the juvenile whose operating privilege is revoked,
 19 suspended, or restricted, or the juvenile's parent or guardian. Persons entitled to
 20 receive this information may not disclose the information to other persons or
 21 agencies.

****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.

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

1 943.21 (3m) (b) *Driver's license suspension; 2nd offense.* Subject to pars. (c) and
2 (d) to (e), if a person commits a repeat offense, the court, in addition to imposing any
3 penalty under sub. (3) (bm), may suspend the person's operating privilege for not
4 more than 6 months.

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

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

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

12 943.21 (3m) (d) *Driver's license suspension; 4th offense.* If Subject to par. (e),
13 if a person violates sub. (1m) (d) after having his or her operating privilege suspended
14 under par. (c), the court, in addition to imposing any penalty under sub. (3) (bm), shall
15 suspend the person's operating privilege for one year.

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

17 943.21 (3m) (e) If this state is a party to an agreement under s. 343.02 (3) (a),
18 the court may not suspend the operating privilege of a person who is not a resident
19 of this state if a violation of sub. (1m) (d) is an offense identified in the rules under
20 s. 343.02 (3) (b).

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

22 961.50 (1) (intro.) If a person is convicted of any violation of this chapter, the
23 court shall, in addition to any other penalties that may apply to the crime, suspend
24 the person's operating privilege, as defined in s. 340.01 (40), for not less than 6
25 months nor more than 5 years. The court ~~shall immediately~~ may take possession of,

1 and if possession is taken, shall destroy, any suspended license and forward it. The
2 court shall forward to the department of transportation together with the record of
3 conviction and notice of the suspension. The person is eligible for an occupational
4 license under s. 343.10 as follows:

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

6 961.50 (1m) Notwithstanding sub. (1), if this state is a party to an agreement
7 under s. 343.02 (3) (a), the court may not suspend the operating privilege of a person
8 who is not a resident of this state if a violation of this chapter is an offense identified
9 in the rules under s. 343.02 (3) (b).

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

11 961.50 (2) For purposes of counting the number of convictions under sub. (1),
12 convictions under the law of a federally recognized American Indian tribe or band in
13 this state, federal law or the law of another jurisdiction, as defined in s. ~~343.32 (1m)~~
14 ~~(a)~~ ^{343.0251} or Mexico, for any offense therein which, if the person had committed the offense
15 in this state and been convicted of the offense under the laws of this state, would have
16 required suspension or revocation of such person's operating privilege under this
17 section, shall be counted and given the effect specified under sub. (1). The 5-year
18 period under this section shall be measured from the dates of the violations which
19 resulted in the convictions.

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

21 (1) DRIVER LICENSE AGREEMENT. The treatment of sections 23.33 (13) (e), 125.07
22 (4) (bs) (intro.), (c) (intro.), (cb), and (cm), 125.085 (3) (bp), 340.01 (13m), 343.01 (2)
23 (bc), (bm), and (cv), 343.02 (3), 343.027, 343.03 (5) (a) and (6) (a), 343.05 (2) (a) 2. and
24 (5) (b) 1., 343.06 (1) (bm) and (j) and (2), 343.085 (4), 343.10 (7) (c), 343.14 (2j) (b),
25 343.16 (5) (a), 343.20 (1) (e) 1., 343.23 (2) (a) (intro.), (ar), and (b), (2m), (3) (a), (3m),

insert
85-19

strike

1 and (4) (b), 343.235 (3) (a), 343.237 (2), 343.24 (3) and (4) (c) 1., 343.28 (1) and (2),
2 343.30 (1), (1g) (a) and (b), (1n), (1o) (intro.), (1p), (1q) (b) (intro.) and 4., (1z), (2d),
3 (2g), (2j) (a), (2m), (4), and (6) (d), 343.301 (1) (a) 1. and 2. and (2) (b) 3., 343.305 (7)
4 (a), (8) (a), (9) (a) (intro.), (am) (intro.), and (e), (10) (a), (b) 3. and 4., and (em), and
5 (11), 343.31 (1) (intro.) and (hm), (2g), (2r), (2s), (2z), and (3) (a), (b), (bg), (bm) (intro.),
6 (c), (d) (intro.), (e), (f), (i), and (j), 343.315 (2) (f) 7., (fm), (h), and (j) (intro.) and (3) (a),
7 (b), (bm), and (d), 343.32 (1), (1m) (a) and (b) (intro.), (1s), (1v), (1z), (2) (a), (2m), and
8 (3), 343.325 (4), 343.34 (1) and (2), 343.345, 343.36 (title), (3), and (3m), 343.38 (1)
9 (c) 2. c., 343.44 (1) (a), (b), (c), and (d), (2r), (2s), and (4r), 343.50 (8) (b), 344.02 (3),
10 344.13 (2), 344.08 (1m), 344.14 (1r), 344.19 (1) and (3), 344.25 (7), 344.27 (3), 344.40
11 (2) (a), 344.45 (1), 345.11 (2), 345.23 (2) (c), 345.28 (5) (b) 1. and 2. a., 345.47 (1)
12 (intro.), (b), and (c), 345.48 (2), 346.63 (2m), 346.65 (2c), (2e), (2u) (c), and (6) (a) 1.,
13 346.93 (2f), (2m), and (2g) (intro.), 350.11 (3) (d), 351.025 (3), 767.303 (1m), 800.09
14 (1) (c), 800.095 (4) (b) 4., 938.34 (14r) (a) and (am), 938.344 (2e) (b) and (2r), 938.396
15 (4), 943.21 (3m) (b), (c), (d), and (e), 961.50 (1) (intro.), (1m) and (2), 909.02 (4) of the
16 statutes, the repeal of sections 343.30 (1q) (c) 1. b. and 343.305 (10) (c) 1. b. of the
17 statutes, the renumbering of sections 125.085 (3) (bd) and 938.34 (14q) of the
18 statutes, the renumbering and amendment of sections 343.30 (5), 344.19 (2), 938.17
19 (2) (d), 938.34 (8), (8d) (d), and (14m), 938.343 (2), and 938.355 (6) (d) 2. of the
20 statutes, the consolidation, renumbering, and amendment of sections 343.30 (1q) (c)
21 1. (intro.), a., and c. and 343.305 (10) (c) 1. (intro.), a., and c. of the statutes, and the
22 creation of sections 125.085 (3) (bd) 2., 343.30 (5) (b), 344.19 (2) (a), 938.17 (2) (d) 2.,
23 938.34 (8) (b), (8d) (d) 2., (14m) (b), and (14q) (b), 938.343 (2) (b), and 938.355 (6) (d)
24 2. b. of the statutes first apply to violations committed or refusals occurring on the
25 effective date of this subsection, but do not preclude the counting of other convictions,

1 suspensions, or revocations as prior convictions, suspensions, or revocations for
2 purposes of administrative action by the department of transportation, sentencing
3 by a court, or revocation or suspension of motor vehicle operating privileges.

4 (2) The treatment of section 343.31 (2) and (2m) of the statutes first applies to
5 violations for which notice is received on the effective date of this subsection.

6 (3) The treatment of sections 343.38 (2) and (4) (intro.), 343.39 (1) (a), 344.18
7 (1m) and (3m), 344.19 (3m), 344.24, 344.26 (1), 344.27 (2), and 344.29 of the statutes
8 and the repeal of sections 343.38 (4) (a) and (b) and 344.09 (3) of the statutes first
9 apply to issuance of operator's licenses or reinstatement of operating privileges or
10 registrations on the effective date of this subsection.

11 (4) The treatment of sections 344.30 (1), 344.32, 344.33 (1), 344.34, 344.42, and
12 631.37 (4) (e) of the statutes first applies to proof of financial responsibility filed with
13 the secretary of transportation on the effective date of this subsection.

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

15 (1) The treatment of sections 23.33 (13) (e), 125.07 (4) (bs) (intro.), (c) (intro.),
16 (cb), and (cm), 125.085 (3) (bp), 340.01 (13m), 343.01 (2) (bc), (bm), and (cv), 343.02
17 (3), 343.027, 343.03 (5) (a) and (6) (a), 343.05 (2) (a) 2. and (5) (b) 1., 343.06 (1) (bm)
18 and (j) and (2), 343.085 (4), 343.10 (7) (c), 343.14 (2j) (b), 343.16 (5) (a), 343.20 (1) (e)
19 1., 343.23 (2) (a) (intro.), (ar), and (b), (2m), (3) (a), (3m), and (4) (b), 343.235 (3) (a),
20 343.237 (2), 343.24 (3) and (4) (c) 1., 343.28 (1) and (2), 343.30 (1), (1g) (a) and (b), (1n),
21 (1o) (intro.), (1p), (1q) (b) (intro.) and 4., (1z), (2d), (2g), (2j) (a), (2m), (4), and (6) (d),
22 343.301 (1) (a) 1. and 2. and (2) (b) 3., 343.305 (7) (a), (8) (a), (9) (a) (intro.), (am)
23 (intro.), and (e), (10) (a), (b) 3. and 4., and (em), and (11), 343.31 (1) (intro.) and (hm),
24 (2), (2g), (2m), (2r), (2s), (2z), and (3) (a), (b), (bg), (bm) (intro.), (c), (d) (intro.), (e), (f),
25 (i), and (j), 343.315 (2) (f) 7., (fm), (h), and (j) (intro.) and (3) (a), (b), (bm), and (d),

87-13

1 343.32 (1), (1m) (a) and (b) (intro.), (1s), (1v), (1z), (2) (a), (2m), and (3), 343.325 (4),
 2 343.34 (1) and (2), 343.345, 343.36 (title), (3), and (3m), 343.38 (1) (c) 2. c., (2), and
 3 (4) (intro.), (a), and (b), 343.39 (1) (a), 343.44 (1) (a), (b), (c), and (d), (2r), (2s), and (4r),
 4 343.50 (8) (b), 344.02 (3), 344.13 (2), 344.08 (1m), 344.14 (1r), 344.18 (1m) (a), 344.19
 5 (1) and (3), 344.24, 344.25 (7), 344.27 (3), 344.29, 344.30 (1), 344.32, 344.33 (1),
 6 344.34, 344.40 (2) (a), 344.42, 344.45 (1), 345.11 (2), 345.23 (2) (c), 345.28 (5) (b) 1. and
 7 2. a., 345.47 (1) (intro.), (b), and (c), 345.48 (2), 346.63 (2m), 346.65 (2c), (2e), (2u) (c),
 8 and (6) (a) 1., 346.93 (2f), (2m), and (2g) (intro.), 350.11 (3) (d), 351.025 (3), 631.37 (4)
 9 (e), 767.303 (1m), 800.09 (1) (c), 800.095 (4) (b) 4., 938.34 (14r) (a) and (am), 938.344
 10 (2e) (b) and (2r), 938.396 (4), 943.21 (3m) (b), (c), (d), and (e), 961.50 (1) (intro.), (1m)
 11 and (2), 909.02 (4) of the statutes, the repeal of sections 343.30 (1q) (c) 1. b. and
 12 343.305 (10) (c) 1. b. of the statutes, the renumbering of sections 125.085 (3) (bd) and
 13 938.34 (14q) of the statutes, the renumbering and amendment of sections 343.30 (5),
 14 344.19 (2), 938.17 (2) (d), 938.34 (8), (8d) (d), and (14m), 938.343 (2), and 938.355 (6)
 15 (d) 2. of the statutes the consolidation, renumbering, and amendment of sections
 16 343.30 (1q) (c) 1. (intro.), a., and c. and 343.305 (10) (c) 1. (intro.), a., and c. of the
 17 statutes, and the creation of sections 125.085 (3) (bd) 2., 343.30 (5) (b), 344.19 (2) (a),
 18 938.17 (2) (d) 2., 938.34 (8) (b), (8d) (d) 2., (14m) (b), and (14q) (b), 938.343 (2) (b), and
 19 938.355 (6) (d) 2. b. of the statutes and SECTION 9348 (1) of this act take effect on July
 20 1, 2007.

21

(END)

insert ✓
88-20

D-Note

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4848/P1ins
ARG:.....

INSERT ANAL-A:

^(no R) if the person is licensed in or a resident of another jurisdiction that is not a member of the DLA or if the offense is not a

INSERT ANAL-B:

↓ The bill also requires that DOT maintain vehicle registration records related to a court order that a vehicle be seized, immobilized, or equipped with an ignition interlock device arising from an OWI-related offense only if the vehicle is titled and registered in this state. The bill further prohibits DOT from transferring title to a vehicle under certain circumstances only if the vehicle was previously titled in this state.

INSERT ANAL-C:

The bill requires DOT, within approximately six months, to submit proposed rules to administer the provisions of the bill to the Legislative Council Staff and to promulgate emergency rules to administer the provisions of the bill until the proposed rules submitted to the Legislative Council Staff become final. The bill delays the applicability of all other provisions for approximately one year.

INSERT 1-2:

^(no R) ^{5A} extending the time limit for emergency rule procedures, providing an exemption from emergency rule procedures ^{providing an exemption} and from rule-making procedures, and requiring the exercise of

INSERT 8-23:

SECTION ~~11~~ 342.12 (4) (a) and (b) ↓ of the statutes are amended to read:

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

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

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

History: 1973 c. 116 s. 6; 1977 c. 29 s. 1654 (7) (a); 1991 a. 39, 277; 1993 a. 317, 490; 1997 a. 199, 237; 1999 a. 31, 109, 179, 185; 2003 a. 184.

INSERT 10-15:

SECTION ~~2~~ 343.027 of the statutes, as affected by 2005 Wisconsin Act ⁵⁹, is amended to read:

343.027 Confidentiality of signatures. Any signature collected under this chapter may be maintained by the department and shall be kept confidential, except that the department shall release a signature or a facsimile of a signature to the department of revenue for the purposes of administering state taxes and collecting debt ~~or~~, to the person to whom the signature relates, to a court, district attorney, county corporation counsel, city, village, or town attorney, law enforcement agency, or to the driver licensing agency of another jurisdiction or Mexico.

NOTE: NOTE: This section is affected by 2005 Wis. Acts 25 and 59. The 2 treatments are irreconcilably in conflict. This section is shown as affected by the last passed act, 2005 Wis. Act 59 eff. 4-1-06. Prior to 4-1-06, and as affected by 2005 Wis. Act 25, it reads:NOTE:

343.027 Confidentiality of signatures. Any signature collected under this chapter may be maintained by the department and shall be kept confidential, except that the department may release a signature or a facsimile of a signature to the person to whom the signature relates and to the department of revenue for the sole purpose of investigating allegations of tax fraud.

History: 1995 a. 113; 2005 a. 25, 59.

INSERT 19-9:

343.23 (2m) (a) Subject to sub. (3m) (b), the department shall maintain a file, other than the operator's record file specified in sub. (2) (a), for each nonresident who is convicted of a violation, or who otherwise commits an offense, in this state that would be recorded on the person's operator's record under sub. (2) or record under sub. (3) (a) if the person were a resident, that shall include all of the following:

1. A record of reports or abstract of convictions resulting from offenses committed in this state, including any court-ordered suspension or revocation of the person's operating privilege, or, subject to sub. (2) (am) 1. c., disqualification, resulting from the conviction.

2. A record of any suspension or revocation by the department of the person's operating privilege under par. (b) or as provided under s. 343.31 (2z), 343.34 (2), 344.08 (1m), 344.14 (1r), 344.25 (7), or 351.025 (3).

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

4. A record of any revocation under s. 343.305 (10) (em).

5. A record of any suspension under s. 343.31 (2s).

***NOTE: This is the sub-driver record.

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

1. The person is licensed in or a resident of another jurisdiction that is not a member jurisdiction.

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

(c) Nothing in this subsection requires the department to maintain a record of any conviction if, at the time of the conviction, the person was licensed in or resided in another jurisdiction or Mexico.

INSERT 20-11:

***NOTE: This provision allows DOT to transfer its driver file information to another jurisdiction, but DOT must continue to retain its own copy (which would no longer be updated), including retaining information for the periods specified in s. 343.23 (2) (b).

INSERT 22-10:

~~SECTION 3.~~ 343.25 of the statutes is renumbered 343.255.

~~SECTION 4.~~ 343.251 of the statutes [inserted after subch. III title] is created to

read:

* 343.251 **Definitions.** In this subchapter and subch. IV, "other jurisdiction" or "another jurisdiction" has the meaning given in s. 340.01 (41m) and also includes Mexico or any state thereof.

INSERT 32-10:

~~SECTION 5.~~ 343.301 (1) (e) of the statutes is created to read:

343.301 (1) (e) The court shall notify the department, in a form and manner prescribed by the department, that an order requiring a motor vehicle to be equipped with an ignition interlock device has been entered. If the motor vehicle is registered

in this state under ch. 341 and the department has issued a valid certificate of title for the vehicle under ch. 342, the registration records of the department shall reflect that the order has been entered against the motor vehicle and remains unexecuted. Any law enforcement officer may execute that order based on the information provided by the department. The law enforcement agency shall notify the department when an order has been executed under this paragraph and the department shall amend its vehicle registration records to reflect that notification if the motor vehicle is registered in this state under ch. 341 and the department has issued a valid certificate of title for the vehicle under ch. 342.

~~SECTION 3.~~ 343.301 (2) (d) of the statutes is amended to read:

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

History: 1999 a. 109; 2001 a. 16 ss. 3417m to 3420t, 4060gj, 4060hw, 4060hy; 2001 a. 104.

INSERT 33-16:

***NOTE: The last sentence (stricken) is "moved" to s. 343.36.

INSERT 34-3:

SECTION 7 343.305 (9) (a) (intro.) of the statutes, as affected by 2005 Wisconsin Act ³³² ~~...~~ (Senate Bill 592), is amended to read:

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

SECTION 8 343.305 (9) (am) (intro.) of the statutes, as affected by 2005 Wisconsin Act ³³² ~~...~~ (Senate Bill 592), is amended to read:

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

INSERT 43-9:

343.31 (2z) (a) The department shall revoke, in the manner provided in sub. (1), the operating privilege of a person who is a nonresident upon receiving a record

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

(b) The department shall suspend, in the manner provided in sub. (2r), the operating privilege of a person who is a nonresident upon receiving a record of the person's conviction of committing in this state an offense specified in sub. (2r) if the person is licensed in or a resident of another jurisdiction that is not a member jurisdiction or if the offense specified in sub. (2r) is not an offense identified in the rules under s. 343.02 (3) (b).

INSERT 43-14:

SECTION 9 343.31 (3) (a) of the statutes is amended to read:

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

History: 1971 c. 219; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 193, 447; 1979 c. 221; 1981 c. 20, 70; 1983 a. 192 s. 304; 1983 a. 459; 1985 a. 80, 82; 1985 a. 293 s. 3; 1987 a. 3, 399; 1989 a. 31, 105; 1991 a. 39, 277, 316; 1993 a. 317; 1995 a. 269, 425, 448; 1997 a. 84, 237, 258, 295; 1999 a. 109, 143; 2001 a. 16, 38, 109; 2003 a. 30, 97, 200.

INSERT 49-15:

(no P)

This paragraph does not apply if the jurisdiction in which the offense was committed suspended or revoked the person's operating privilege in that jurisdiction as a result of the conviction and the period of suspension or revocation in that jurisdiction has expired or if, at the time of the conviction, the person was licensed in or resided in another jurisdiction.

INSERT 50-6:

(no P)

This paragraph does not apply if the jurisdiction in which the offense was committed suspended or revoked the person's operating privilege in that jurisdiction as a result of the conviction and the period of suspension or revocation in that

jurisdiction has expired or if, at the time of the conviction, the person was licensed in or resided in another jurisdiction.

INSERT 50-7:

CR; 343.32 (1s) (b)

343.32 (1s) (b) Notwithstanding ss. 125.085 (3) (bd) and 343.30 (6) (bm), the secretary shall suspend, in the manner provided in par. (a), the operating privilege of any person who is a nonresident and who has been convicted in this state, under state law or under a local ordinance which is in conformity therewith, of altering the person's license, loaning the person's license to another or unlawfully or fraudulently using or permitting an unlawful or fraudulent use of a license if the person is licensed in or a resident of another jurisdiction that is not a member jurisdiction or if the offense is not an offense identified in the rules under s. 343.02 (3) (b).

INSERT 50-17:

(no #)

This subsection does not apply if the period of suspension or revocation in the other jurisdiction has expired or if, at the time of the offense or time that the circumstances occurred, the person was licensed in or resided in another jurisdiction. This subsection does not apply with respect to any suspension or revocation in another jurisdiction for failure to comply with the order of, or appear before, a court of that jurisdiction.

INSERT 51-13:

(no #)

The secretary may not consider, for purposes of this paragraph, any offense occurring in another jurisdiction if, at the time of any conviction for the offense, the person was licensed in or resided in another jurisdiction

INSERT 53-7:

(no R)

if the person is licensed in or a resident of another jurisdiction that is not a member jurisdiction or if a violation of s. 343.16 (7) (b) is not an offense identified in the rules under s. 343.02 (3) (b). This subsection does not apply if the offense was committed in another jurisdiction which suspended or revoked the person's operating privilege in that jurisdiction as a result of the conviction and the period of suspension or revocation in that jurisdiction has expired or if, at the time of the conviction, the person was licensed in or resided in another jurisdiction.

INSERT 54-1:

~~SECTION 10.~~ 343.36 (3) of the statutes is renumbered 343.36 (3) (a) and amended to read:

343.36 (3) (a) ~~Upon~~ Subject to s. 343.03 (7) (b) and (c), upon receiving a record of conviction showing that a nonresident operator of a motor vehicle has been convicted in this state of an offense which is grounds for revocation, suspension, or disqualification under the laws of this state, or upon otherwise receiving any order of a court in this state suspending or revoking a nonresident's operating privilege or disqualifying a nonresident, the department shall forward, within 30 days of receiving the record of conviction or order, a certified copy of such record or order to the motor vehicle administrator in the state wherein the person so convicted is a resident driver licensing agency of the person's home jurisdiction. If the department subsequently receives any notice under s. 343.325 (1) or (6) related to the conviction or order, the department shall forward a certified copy of the notice to the same driver licensing agency.

****NOTE: This provision is intended to be broad enough to cover both court-ordered suspensions /revocations and DOT administrative withdrawals, under all circumstances, including, for example, ss. 343.305 (10) (em) and 343.31 (2s).

~~SECTION 11.~~ 343.36 (3) (b), (c), and (d) of the statutes are created to read:

343.36 (3) (b) Subject to s 343.03 (7) (b), upon receiving any of the following information with respect to a person who is a nonresident, the department shall forward, within 30 days of receiving the information, notice of the information to the driver licensing agency of the person's home jurisdiction:

1. A report of positive test results under s. 343.305 (7) (a). Notice forwarded by the department shall include notice of the administrative suspension under s. 343.305 (7) (a).

2. A report of positive test results and issuance of an out-of-service order under s. 343.305 (7) (b).

3. A report of refusal of testing and preparation of a notice of intent to revoke under s. 343.305 (9) (a) or (am) and any issuance of an out-of-service order under s. 343.305 (9) (a) or (am).

(c) Subject to s. 343.03 (7) (b) and (c), upon receiving a record of conviction showing that a nonresident operator of a motor vehicle has been convicted in this state of an offense that is identified in the rules under s. 343.02 (3) (b) but which is not grounds for revocation, suspension, or disqualification under the laws of this state, the department shall forward, within 30 days of receiving the record of conviction, a certified copy of such record to the driver licensing agency of the person's home jurisdiction. If the department subsequently receives any notice under s. 343.325 (1) or (6) related to the conviction, the department shall forward a certified copy of the notice to the same driver licensing agency.

(d) If a nonresident operator of a motor vehicle commits an offense in this state that is grounds for suspension of a person's operating privilege under ch. 344, the department shall forward notice of the offense to the driver licensing agency of the

for insert
60.3 see
next page

person's home jurisdiction, which notice shall include notice of any suspension by the department as provided under s. 344.08 (1m), 344.14 (1r), or 344.25 (7).

INSERT 60-14:

(no P) if the nonresident is licensed in or a resident of another jurisdiction that is not a member jurisdiction or

INSERT 61-10:

(no P) if the nonresident is licensed in or a resident of another jurisdiction that is not a member jurisdiction or

INSERT 63-25:

(no P) The secretary may not suspend an operating privilege under this subsection if the period of suspension or revocation in the state from which the certification is received has expired or if, at the time of the circumstances occurring in the other jurisdiction, the person was licensed in or resided in another jurisdiction.

****NOTE: For purposes of ch. 344, "another jurisdiction" and "another state" are close to synonymous. Compare s. 340.01 (41m) with s. 344.01 (2) (f).

INSERT 64-16:

(no P) if the nonresident is licensed in or a resident of another jurisdiction that is not a member jurisdiction or

INSERT 72-14:

~~SECTION 12~~ 346.65 (6) (a) 3. of the statutes is amended to read:

346.65 (6) (a) 3. The court shall notify the department, in a form and manner prescribed by the department, that an order to seize a motor vehicle has been entered. The If the motor vehicle is registered in this state under ch. 341 and the department has issued a valid certificate of title for the vehicle under ch. 342, the registration records of the department shall reflect that the order has been entered

against the vehicle and remains unexecuted. Any law enforcement officer may execute that order, and shall transfer any motor vehicle ordered seized to the law enforcement agency that was originally ordered to seize the vehicle, based on the information provided by the department. The law enforcement agency shall notify the department when an order has been executed under this subdivision and the department shall amend its vehicle registration records to reflect that notification if the motor vehicle is registered in this state under ch. 341 and the department has issued a valid certificate of title for the vehicle under ch. 342.

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.

→ YES

INSERT 73-8: (60-3)

SECTION 13. 346.65 (6) (km) of the statutes is amended to read:

346.65 (6) (km) If a person purchases a motor vehicle in good faith and without knowledge that the motor vehicle was subject to immobilization or seizure or to equipping with an ignition interlock device under this subsection and the department has no valid reason for not issuing a certificate of title other than the prohibition under par. (k), the department shall issue a new certificate of title in the name of the person requesting the new certificate of title if at the time of the purchase of the motor vehicle the certificate of title did not contain the notation stamped on the certificate of title by the clerk of circuit court under par. (a) 2m. and, if the person submits the affidavit required under s. 342.12 (4) (c) 1. c., and if the department has previously issued a valid certificate of title for the motor vehicle.

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.

INSERT 75-8:

938.17 (2) (d) 2. If a court suspends a license or privilege under subd. 1., the court shall immediately take possession of the applicable license and forward it if

license
issued under ch. 29 or, if the license is issued under ch. 343, the court may take possession of, and if possession is taken, shall destroy, the license. The court shall forward to the department that issued the license, together with the notice of suspension stating that the suspension is for failure to pay a forfeiture imposed by the court, together with any license issued under ch. 29 of which the court takes possession. If the forfeiture is paid during the period of suspension, the court shall immediately notify the department, which shall then, if the license is issued under ch. 29, return the license to the person.

INSERT 85-19:

****NOTE: Was there ever a time when "revocation" was possible under s. 961.50?
Can we strike reference to "revocation" in this subsection?

AR X

SECTION 14. Nonstatutory provisions.

(1) The department of transportation shall submit in proposed form the rules required under section 343.02 (3) (b) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 6th month beginning after the effective date of this subsection, unless the secretary of administration requires the department to prepare an economic impact report under section 227.137 of the statutes for the proposed rules.

(2) Using the emergency rules procedure under section 227.24 of the statutes, the department of transportation shall promulgate the rules required under section 343.02 (3) (b) of the statutes, as created by this act, for purposes of implementing this act, for the period before the effective date of the rules submitted under subsection (1). The department shall promulgate these emergency rules no later than the first

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

INSERT 87-13:

***NOTE: The list of citations in this initial applicability provision has NOT been EDITED / UPDATED. It will need to be revised in next draft.

INSERT 88-20:

SECTION 15, Effective dates. This act takes effect on the first day of the 13th month beginning after publication, except as follows:

- (1) The treatment of section 343.02 (3) (b) of the statutes and SECTION ~~NO TAG~~ (NO TAG) [non-stat] and (NO TAG) of this act take effect on the first day of the 7th month beginning after publication.

ARX

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4848/P1dn

ARG.....
WJ

ATTN: Erin Egan and Karen Baetsen

The attached draft is based upon the instructions provided by DOT earlier this session and picks up where the partially-completed draft earlier this session (LRB-0064) left off, but I have made some significant changes in an effort to make the draft easier to read and more coherent. In addition, as discussed, the attached draft does not include treatment of court-ordered suspensions and revocations.

I have found the drafting related to disqualification of CDL holders to be particularly thorny. Based upon DOT's prior instructions, I did not attempt to distinguish between Wisconsin licensee/residents and nonresidents in s. 343.315 (2), so disqualification under s. 343.315 (2) would apply to both residents and nonresidents, but created s. 343.315 (3) (bm) attempts to distinguish between "administrative" disqualifications by DOT and disqualifications as a matter of law. Various provisions had to be altered regarding DOT driver records to avoid requiring DOT to maintain a record of disqualifications of nonresidents. Additional provisions also had to be treated, and all provisions must still comply with federal MCSIA requirements. See, for example, ss. 343.06 (2) and 343.325 (4) in the attached draft and ss. 343.10 (7) (c) and 343.23 (1) (intro.) and (c), stats. The attached draft resolves any conflict between the DLA and MCSIA (see, for example, s. 343.23 (2) (am) 1. c.) by giving precedence to MCSIA over any DLA requirement. Do you have any suggestions for improving the disqualification provisions in the attached draft?

Based upon DOT's instructions, the attached draft includes a sub-driver file distinguishable from the operating record. This file may be used for certain purposes. This provision in the draft is rather complicated, but the complexity is necessary to serve the various purposes for which the sub-driver file may be used. Please advise if this provision is more expansive than you intended and, if so, which purposes in the draft are not desired for the sub-driver file.

The DLA includes Mexico as a jurisdiction. I could not add "Mexico" to the definition under s. 340.01 (41m), or create a similar definition for all of ch. 343, to address the inclusion of Mexico as a jurisdiction under the DLA because, according to DOT's prior instructions, DOT does not want Mexico to be included as "another jurisdiction" (or "other jurisdiction") for all purposes in ch. 343. Instead, I have added a definition applicable only to subchs. III and IV of ch. 343 (ss. 343.25 to 343.46), which seems to

be where the definitional change is needed most; however, the impact of this change is that a disqualification will occur under s. 343.315 (2) (a) if any of the listed offenses occur in Mexico. Is this OK? In all other situations, I have *guessed* at where DOT may want the term "or Mexico" inserted. Please review the attached draft carefully to determine if I have inserted the term in locations where DOT does not want it or if I have failed to insert it in locations where DOT does want it. Also, as an alternative to creating a subchapter definition, I could create a definition applicable to only specific statutory sections, if you prefer.

Please let me know what changes you would like to the attached draft or call if you have any questions.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4848/P1dn

ARG:wlj:rs

May 10, 2006

ATTN: Erin Egan and Karen Baetsen

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