



2009 ASSEMBLY BILL 777

February 24, 2010 – Introduced by Representatives COLON, ZEPNICK, BERCEAU, TURNER, BIES, GRIGSBY, SHERMAN, BLACK and PASCH, cosponsored by Senators TAYLOR and MILLER. Referred to Committee on Transportation.

1 **AN ACT** *to amend* 340.01 (41g), 343.07 (7) (a) and (b), 343.09 (1) (e), (6) and (7),
2 343.17 (1), 343.19 (1) and 632.35; *to repeal and recreate* 343.19 (1); and *to*
3 *create* 343.03 (3) (g), 343.07 (1j), 343.09, 343.17 (3) (a) 14. and 349.02 (4) of the
4 statutes; **relating to:** the issuance of driver cards and driver card instruction
5 permits by the Department of Transportation, requiring the exercise of
6 rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, as a result of 2005 Wisconsin Act 126, an applicant for an operator's license or identification card must present documentary proof that the person is either a United States citizen or legally present in the United States. The Department of Transportation (DOT) may not issue an operator's license to an applicant who has not provided this documentary proof of citizenship or legal presence. If documentary proof provided by a noncitizen includes an end date for the person's authorized legal presence in the United States, an operator's license or identification card issued to the person must expire no later than the date on which the person's authorization to be legally present in the United States ends.

Under current federal law, the REAL ID Act of 2005 (REAL ID Act) prohibits a federal agency from accepting for any "official purpose," including boarding commercial aircraft and entering federal buildings, an operator's license or identification card issued by a state unless the state satisfies requirements

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contained in the REAL ID Act. The REAL ID Act allows states to issue operator's licenses and identification cards that are not compliant with REAL ID standards if they clearly state on their face that they cannot be accepted by any federal agency for federal identification or any other official purpose and if they use a unique design or color indicator to alert federal agency and other law enforcement personnel that they are not REAL ID compliant. While the provisions of the REAL ID Act became effective on May 11, 2008, the federal Department of Homeland Security (Homeland Security) regulations promulgated under the REAL ID Act gave states additional time to implement the REAL ID standards. The 2007 biennial budget act, 2007 Wisconsin Act 20, contained provisions incorporating into state law requirements contained in the REAL ID Act. However, most of these provisions are subject to a contingent effective date; the provisions do not become effective until the date specified in a notice provided by DOT after DOT has determined that it is ready to fully implement the REAL ID Act. DOT has not yet provided this notice.

After DOT provides this notice and these provisions of REAL ID become effective, they will require DOT to significantly modify its process for issuing operator's licenses and identification cards and DOT cannot issue or renew an operator's license or identification card unless the applicant provides, and DOT verifies, all of the following information: 1) an identification document that includes either the applicant's photograph or both the applicant's full legal name and date of birth; 2) documentation showing the applicant's date of birth; 3) proof of the applicant's social security number or verification that the applicant is not eligible for a social security number; 4) documentation showing the applicant's name and address of principal residence; and 5) valid documentary proof that the individual is a citizen or national of the United States or an alien lawfully admitted for permanent or temporary residence in the United States or has any of other specified forms of legal status or authorization. In processing the application, DOT must verify each document provided and must capture a digital image of each document, which must be retained for at least ten years. For certain legally present noncitizen applicants, DOT must issue operator's licenses or identification cards displaying, on the front of the license or card, a legend identifying the license or identification card as temporary. These licenses and identification cards must expire on the date that the person's legal presence in the United States is no longer authorized or, if there is no end date for the person's authorized legal presence, one year after the date of license or identification card issuance. These licenses and identification cards cannot be renewed unless the applicant provides documentary proof showing that Homeland Security extended the status by which the applicant qualified for the license or identification card.

This bill requires DOT to issue "driver cards," authorizing only the operation of "Class D" vehicles (generally automobiles and light-duty trucks), to applicants who: 1) are at least 18 years old or have held a driver card instruction permit for at least six months; 2) meet the knowledge and driving skills testing requirements applicable for issuance of operator's licenses for "Class D" vehicles; 3) provide proof of identity; 4) provide proof that they have been Wisconsin residents for at least six months; 5) are unable to provide the documentary proof (as established under 2005

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Wisconsin Act 126 and as established under 2007 Wisconsin Act 20 after implementation of REAL ID) that they are either United States citizens or legally present in the United States; 6) provide valid individual taxpayer identification numbers; and 7) are not eligible for social security numbers. The document storage and verification requirements imposed for operator's license applicants after the implementation of REAL ID may not be imposed for driver card applicants. Unlike other operator's license applicants between the ages of 18 and 26, DOT does not forward a driver card applicant's information to the selective service system.

Driver cards must be labeled as such and must clearly state on their face that they may not be accepted by any federal agency for federal identification or any other official purpose. Driver cards must also have a unique design or color indicator that clearly distinguishes them from other operator's licenses or identification cards issued by DOT and that alerts federal authorities that they are not REAL ID compliant. A driver card is issued for a two-year period and must be renewed every two years thereafter. The fee for issuance and renewal of a driver card is the same as that applicable to other operator's licenses, although the valid period is shorter.

DOT must also issue driver card instruction permits to persons who are at least 15 and one-half years old, who have passed any knowledge test required by DOT, and who, except for age or lack of training, are qualified to obtain a driver card. The operating restrictions for driver card instruction permits are similar to those applicable to other instruction permits.

DOT must promulgate rules specifying the standards for the issuance of driver cards and driver card instruction permits, including standards for proof of residency and proof of identification.

A law enforcement officer, state agent, or local authority may not use a driver card or driver card instruction permit as a basis to inquire about the immigration status of an individual who lawfully presents the driver card or driver card instruction permit for its intended purpose. An insurer may not cancel or refuse to issue or renew an automobile insurance policy because the person has been issued a driver card or driver card instruction permit.

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

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

1 **SECTION 1.** 340.01 (41g) of the statutes is amended to read:

2 340.01 **(41g)** "Operator's license" means the authorization granted to a person
3 by this state, another jurisdiction or certain countries to operate a motor vehicle,
4 including a driver's license, driver card, temporary or restricted license, or an
5 instruction permit.

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1 **SECTION 2.** 343.03 (3) (g) of the statutes is created to read:

2 343.03 **(3)** (g) *Driver card.* A license issued under s. 343.09 shall be labeled
3 “Driver Card” or a readily recognizable abbreviation thereof and shall satisfy the
4 requirements specified in s. 343.09 (2).

5 **SECTION 3.** 343.07 (1j) of the statutes is created to read:

6 343.07 **(1j)** PERMIT FOR DRIVER CARD APPLICANTS. Upon application therefor by
7 a person at least 15 years and 6 months of age who, except for age or lack of training
8 in the operation of a motor vehicle, is qualified to obtain a driver card under s. 343.09
9 and has passed such knowledge test as the department may require, the department
10 may issue a driver card instruction permit. The permit entitles the permittee to
11 operate a “Class D” vehicle upon the highways. A permittee under this subsection
12 is subject to all of the restrictions specified in sub. (1g) (a) to (e), except that, with
13 respect to sub. (1g) (a) (intro.), a permittee under this subsection may be
14 accompanied by a person who holds a driver card issued under s. 343.09 or by a
15 person who holds a valid regular license. An applicant under this subsection is
16 subject to all applicable fees specified in s. 343.21 (1). A driver card instruction
17 permit shall satisfy all requirements for driver cards specified in s. 343.09 (2) and
18 any provision specified in s. 343.09 (6) shall not apply with respect to a driver card
19 instruction permit.

20 **SECTION 4.** 343.07 (7) (a) and (b) of the statutes are amended to read:

21 343.07 **(7)** (a) Notwithstanding s. 343.43 (1) (d) and (3m), any person who
22 violates sub. (1g) (a), (bm), or (d), (1j), or (4) (b) 1. or 2. shall be required to forfeit \$50
23 for the first offense and not less than \$50 nor more than \$100 for each subsequent
24 offense.

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1 (b) Upon receiving notice of a person's conviction for a violation of sub. (1g) (a),
2 (bm), or (d), (1j), or (4) (b) 1. or 2., the department shall notify any adult sponsor who
3 has signed for the person under s. 343.15 (1) of the conviction.

4 **SECTION 5.** 343.09 of the statutes is created to read:

5 **343.09 Driver cards. (1)** Except as provided in s. 343.06 (1) (a) to (k) and (m),
6 the department shall issue a driver card to any applicant who meets all of the
7 following requirements:

8 (a) The applicant is at least 18 years of age, unless the applicant has held an
9 instruction permit issued under s. 343.07 (1j) for not less than 6 months and, during
10 the 6-month period immediately preceding application, has not committed a moving
11 violation resulting in a conviction.

12 (b) The applicant meets all requirements under s. 343.16 (1) (a) for issuance of
13 an operator's license authorizing operation of "Class D" vehicles.

14 (c) The applicant provides proof of identity.

15 (d) The applicant provides proof that he or she has been a resident for at least
16 6 months.

17 (e) The applicant is unable to provide the documentary proof described in s.
18 343.14 (2) (er).

19 (f) The applicant provides a valid individual taxpayer identification number
20 issued by the federal Internal Revenue Service.

21 (g) The applicant is not eligible to receive a social security number.

22 (h) The applicant has paid all applicable fees.

23 **(2)** Driver cards shall clearly state on their face in bold lettering, and shall also
24 be encoded in the cards' machine readable zone, that they may not be accepted by any
25 federal agency for federal identification or any other official purpose. Driver cards

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1 shall have a unique design or color indicator that clearly distinguishes them from
2 other operator's licenses or identification cards issued by the department and that
3 alerts federal agency and other law enforcement personnel that they may not be
4 accepted for federal identification or any other official purpose.

5 **(3)** A driver card issued under this section authorizes the operation of only
6 "Class D" vehicles and may not be endorsed to permit operation of the vehicle types
7 described in s. 343.04 (2).

8 **(4)** Notwithstanding s. 343.20 (1) (a), a driver card issued under this section
9 shall expire 2 years from the date of the applicant's last birthday and, upon renewal,
10 shall expire 2 years from the driver card's last expiration date. Notwithstanding the
11 8-year period specified in ss. 343.14 (3) and 343.16 (3) (a), a driver card may not be
12 renewed unless the applicant, every 2 years, passes the eyesight examination
13 specified in s. 343.16 (3) (a) and has his or her photograph taken as provided in s.
14 343.14 (3).

15 **(5)** An applicant under this section is subject to the full applicable fees specified
16 in s. 343.21 (1), without proration based upon the valid period of the driver card.

17 **(6)** Sections 343.06 (1) (L), 343.14 (2) (bm), (br), (em), and (er), 343.20 (1) (f) and
18 (1m), and 343.234 do not apply with respect to a driver card issued under this section,
19 and the incorporation or reference of any of these provisions in another statutory unit
20 shall not result in the application of any of these provisions with respect to a driver
21 card.

22 **(7)** The department shall promulgate rules specifying the standards for the
23 issuance of driver cards, including standards for proof of residency and for proof of
24 identification. These rules shall also apply to driver card instruction permits under

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1 s. 343.07 (1j). The department shall, by rule, specify applicable moving violations for
2 purposes of sub. (1) (a).

3 **SECTION 6.** 343.09 (1) (e), (6) and (7) of the statutes, as created by 2009
4 Wisconsin Act (this act), are amended to read:

5 343.09 (1) (e) The applicant is unable to provide the documentary proof
6 described in s. 343.14 (2) ~~(er)~~ (es) or otherwise satisfy the requirements under s.
7 343.165.

8 **(6)** Sections 343.03 (3m), 343.06 (1) (L), 343.14 (2) (bm), (br), (em), and ~~(er)~~ (es),
9 343.165, 343.20 (1) (f) and (1m), and 343.234 do not apply with respect to a driver card
10 issued under this section, and the incorporation or reference of any of these
11 provisions in another statutory unit shall not result in the application of any of these
12 provisions with respect to a driver card.

13 **(7)** The department shall promulgate rules specifying the standards for the
14 issuance of driver cards, including standards for proof of residency and for proof of
15 identification. These rules shall also apply to driver card instruction permits under
16 s. 343.07 (1j). The department shall, by rule, specify applicable moving violations for
17 purposes of sub. (1) (a). The department may not promulgate any rule that has the
18 effect of imposing document storage and verification requirements similar to those
19 under s. 343.165 in connection with the issuance of driver cards or driver card
20 instruction permits.

21 **SECTION 7.** 343.17 (1) of the statutes, as affected by 2007 Wisconsin Act 20, is
22 amended to read:

23 343.17 (1) LICENSE ISSUANCE. Subject to ~~s.~~ ss. 343.09 and 343.165, the
24 department shall issue an operator's license and endorsements, as applied for, to
25 every qualifying applicant who has paid the required fees.

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1 **SECTION 8.** 343.17 (3) (a) 14. of the statutes is created to read:

2 343.17 **(3)** (a) 14. For a driver card issued under s. 343.09, the information
3 specified in s. 343.09 (2).

4 **SECTION 9.** 343.19 (1) of the statutes is amended to read:

5 343.19 **(1)** If a license issued under this chapter or an identification card issued
6 under s. 343.50 is lost or destroyed or the name or address named in the license or
7 identification card is changed or the condition specified in s. 343.17 (3) (a) 12. or 13.
8 no longer applies, the person to whom the license or identification card was issued
9 may obtain a duplicate thereof or substitute therefor upon furnishing proof
10 satisfactory to the department of name and date of birth and that the license or
11 identification card has been lost or destroyed or that application for a duplicate
12 license or identification card is being made for a change of address or name or
13 because the condition specified in s. 343.17 (3) (a) 12. or 13. no longer applies. If
14 Except with respect to a driver card or driver card instruction permit, if the applicant
15 is a male who is at least 18 years of age but less than 26 years of age, the application
16 shall include the information required under s. 343.14 (2) (em). If the original license
17 or identification card is found it shall immediately be transmitted to the department.
18 Duplicates of nonphoto licenses shall be issued as nonphoto licenses.

19 **SECTION 10.** 343.19 (1) of the statutes, as affected by 2007 Wisconsin Act 20 and
20 2009 Wisconsin Act (this act), is repealed and recreated to read:

21 343.19 **(1)** If a license issued under this chapter or an identification card issued
22 under s. 343.50 is lost or destroyed or the name or address named in the license or
23 identification card is changed or the condition specified in s. 343.17 (3) (a) 12. or 13.
24 no longer applies, the person to whom the license or identification card was issued
25 may obtain a duplicate thereof or substitute therefor upon furnishing proof

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1 satisfactory to the department of full legal name and date of birth and that the license
2 or identification card has been lost or destroyed or that application for a duplicate
3 license or identification card is being made for a change of address or name or
4 because the condition specified in s. 343.17 (3) (a) 12. or 13. no longer applies. Except
5 with respect to a driver card or driver card instruction permit, if the applicant is a
6 male who is at least 18 years of age but less than 26 years of age, the application shall
7 include the information required under s. 343.14 (2) (em). If the original license or
8 identification card is found it shall immediately be transmitted to the department.

9 **SECTION 11.** 349.02 (4) of the statutes is created to read:

10 349.02 (4) No law enforcement officer, state agent, or local authority may use
11 a driver card issued under s. 343.09 or driver card instruction permit issued under
12 s. 343.07 (1j) as a basis to inquire about the immigration status of an individual who
13 lawfully presents the driver card or driver card instruction permit for its intended
14 purpose.

15 **SECTION 12.** 632.35 of the statutes is amended to read:

16 **632.35 Prohibited rejection, cancellation, and nonrenewal.** No insurer
17 may cancel or refuse to issue or renew an automobile insurance policy wholly or
18 partially because of one or more of the following characteristics of any person: age,
19 sex, residence, race, color, creed, religion, national origin, ancestry, marital status or,
20 occupation, or issuance to the person of a driver card under s. 343.09 or a driver card
21 instruction permit under s. 343.07 (1j).

22 **SECTION 13. Nonstatutory provisions.**

23 (1) Notwithstanding section 16.42 (1) (e) of the statutes, in submitting
24 information under section 16.42 of the statutes for purposes of the 2011–13 biennial
25 budget bill, the department of transportation shall submit information concerning

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1 the appropriation under section 20.395 (5) (cq) of the statutes as though the total
2 amount appropriated under section 20.395 (5) (cq) of the statutes for the 2010–11
3 fiscal year was \$669,800 less than the total amount that was actually appropriated
4 under section 20.395 (5) (cq) for the 2010–11 fiscal year.

5 **SECTION 14. Fiscal changes.**

6 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
7 to the department of transportation under section 20.395 (5) (cq) of the statutes, as
8 affected by the acts of 2009, the dollar amount is increased by \$602,000 for the first
9 fiscal year of the fiscal biennium in which this subsection takes effect to increase the
10 authorized FTE positions for the department by 8.5 SEG positions and by 14.6 SEG
11 project positions and to provide funding to prepare for implementation of a system
12 for the issuance of driver cards and driver card instruction permits. In the schedule
13 under section 20.005 (3) of the statutes for the appropriation to the department of
14 transportation under section 20.395 (5) (cq) of the statutes, as affected by the acts of
15 2009, the dollar amount is increased by \$1,782,000 for the second fiscal year of the
16 fiscal biennium in which this subsection takes effect to provide continued funding for
17 the positions authorized under this subsection and for the implementation and
18 administration of a system for the issuance of driver cards and driver card
19 instruction permits.

20 **SECTION 15. Effective dates.** This act takes effect on the first day of the 6th
21 month beginning after publication, except as follows:

22 (1) The amendment of sections 343.09 (1) (e), (6), and (7) and 343.17 (1) of the
23 statutes and the repeal and recreation of section 343.19 (1) of the statutes take effect
24 on the first day of the 6th month beginning after publication, or on the date on which

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1 the creation of section 343.165 of the statutes by 2007 Wisconsin Act 20 takes effect,
2 whichever is later.

3 (2) SECTION 14 (1) of this act takes effect on the day after publication.

4 (END)