

2009 DRAFTING REQUEST

Bill

Received: 11/11/2008

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Tamara Grigsby (608) 266-0645**

By/Representing: **Cindy McGinnis**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - driver licenses**

Extra Copies: **EVM**

Submit via email: **YES**

Requester's email: **Rep.Grigsby@legis.wisconsin.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Motor vehicle operating privileges and operator's license seizure

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 12/04/2008	bkraft 12/04/2008		_____			S&L
/P1			jfrantze 12/04/2008	_____	sbasford 12/04/2008		S&L
/1	agary 01/14/2009	bkraft 01/14/2009	rschluet 01/14/2009	_____	cduerst 01/14/2009	cduerst 01/14/2009	S&L
/2	agary	bkraft	jfrantze	_____	cduerst	cduerst	

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	02/26/2009	02/26/2009	02/27/2009	_____	02/27/2009	02/27/2009	

FE Sent For: "1/2" @ intro. 3/30/09

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12 bjk 2/26
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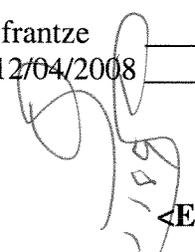
Instructions:

See attached

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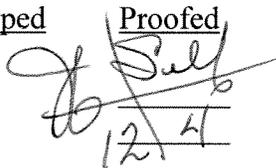
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1/?	agary	1/Pl bjk 12/4					

FE Sent For:

<END>

Gary, Aaron

To: Mcginnis, Cindy
Subject: RE: Driver License bills

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

From: Mcginnis, Cindy
Sent: Monday, November 10, 2008 11:08 AM
To: Peterson, Eric; Gary, Aaron
Subject: RE: Driver License bills

Aaron-

Please draft Assembly companions to these bills/resolution as well.

Thanks.

Cindy McGinnis
Office of State Representative Tamara Grigsby
122 North State Capitol
PO Box 8952
Madison, WI 53708
1-888-534-0018 - toll free
(608) 266-0645
(608) 282-3618 - fax

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

From: Peterson, Eric
Sent: Monday, November 10, 2008 11:02 AM
To: Gary, Aaron
Subject: FW: Driver License bills

Aaron,

I need redrafting done for the 09 session based on bills from the 07 session.

2- Please redraft 2007 AB 818 into a 2009 session bill with the below changes.

The draft should include these items from last session's bill::

- * driver license confiscation
- * reinstatement cleanup
- * removing mandatory revocation on 4th offense OAR/OWS
- * after application suspensions

Please remove in the new draft:

- * OWI consecutives
- * non-resident reinstatement provisions.

Please contact me at the office if you have questions. Nicole Yunk of Justice 2000, Inc and Mitch Warren of DOT are authorized to see and comment on drafting.

Thanks,
Eric

Eric M. Peterson
Office of Senator Lena C. Taylor
608-266-5810

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

From: Warren, Mitchell [mailto:mitchell.warren@dot.state.wi.us]
Sent: Friday, November 07, 2008 2:48 PM
To: Mcginnis, Cindy; Peterson, Eric
Cc: Nikki Yunk (E-mail)
Subject: Driver License bills

Hi Cindy and Eric, I hope fall is treating you well.

Speaking with Nichole Yunk I understand you're planning on beginning the drafting on the Driver License Recovery Omnibus package, and the Federal Drug opt-out.

I thought I'd throw my \$.02 out from DOT.

AB 818 last session had a couple problems. In the draft we'd like to see the components relating to:

- * driver license confiscation
- * reinstatement cleanup
- * removing mandatory revocation on 4th offense OAR/OWS
- * after application suspensions

Items we'd rather not see come up are OWI consecutives, and the non-resident reinstatement provisions. We knew last session the consecutive wasn't what any of us wanted, and in hindsight the non-resident reinstatement didn't exactly work either.

Take care.

-Mitch

Mitchell Warren, Operations Chief
DMV Bureau of Field Services
WisDOT
(608) 266-2743
mitchell.warren@dot.state.wi.us

Soon

in 12/4

RMNR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

d-note

No changes - edited yesterday
→ except d-note

SAV

re-gen.

1 AN ACT *to repeal* 343.10 (2) (a) 3., 343.31 (1) (hm), 343.39 (1) (a) and 345.48 (3);
2 *to renumber and amend* 343.26 and 343.39 (3); *to amend* 118.163 (2) (a),
3 118.163 (2m) (a), 343.03 (1) (b), 343.05 (1) (a), 343.06 (2), 343.20 (1) (a), 343.28
4 (2), 343.28 (3), 343.30 (1g) (b), 343.30 (4), 343.30 (6) (d), 343.305 (7) (a), 343.305
5 (7) (b), 343.305 (9) (a) (intro.), 343.305 (9) (am) (intro.), 343.315 (3) (a), 343.315
6 (3) (b), 343.32 (1m) (d), 343.38 (title), 343.38 (1) (intro.), 343.38 (1) (a), 343.38
7 (2), 343.38 (3), 343.39 (1) (b), 343.39 (2), 345.24 (2), 345.47 (1) (c), 345.48 (2),
8 345.48 (4), 800.09 (1) (c), 938.17 (2) (d) 2., 938.34 (8), 938.34 (8d) (d), 938.34
9 (14m), 938.34 (14r) (a), 938.34 (14r) (c), 938.342 (1g) (a), 938.343 (2), 938.344
10 (2e) (b), 938.344 (2e) (c), 938.355 (6) (d) 2., 938.355 (6m) (a) 1m., 961.50 (1)
11 (intro.) and 961.50 (3); *to repeal and recreate* 343.20 (1) (a) and 343.26 (1);
12 and *to create* 343.26 (2) and 343.38 (3g) and (3r) of the statutes; **relating to:**
13 motor vehicle operating privileges, seizures by courts or law enforcement

1 officers of operator's licenses, and reinstatement of canceled identification
2 cards.

Analysis by the Legislative Reference Bureau

Under current law, if a court suspends or revokes a person's operating privilege, the court must take possession of the person's operator's license and forward it to the Department of Transportation (DOT). If a person is arrested for operating a motor vehicle while under the influence of an intoxicant (OWI), a law enforcement officer requests the person to take a test to determine the amount of alcohol in his or her blood or breath, and the person either refuses to take the test or the test results indicate a prohibited alcohol concentration, the officer must take possession of the person's operator's license and forward it to DOT.

Under this bill, a court that suspends or revokes a person's operating privilege may take possession of a person's operator's license but is not required to do so. If a court does take possession of a person's operator's license, the court must destroy the license. Upon reinstatement of the person's operating privilege, instead of returning the license, DOT must issue a new license. Also, a law enforcement officer who arrests a person for OWI may not take possession of a person's operator's license. The bill also allows a person who is otherwise eligible to obtain an occupational license to do so without surrendering his or her revoked operator's license.

Under current law, if a court suspends a person's operating privilege for certain violations and at the time of the suspension the person does not have a valid operator's license, the period of operating privilege suspension does not begin until the person is eligible and applies for an operator's license or until a specified period of time elapses, whichever occurs first.

Under this bill, a person need not apply for issuance, renewal, or reinstatement of an operator's license to trigger the commencement of the period of operating privilege suspension. The period of operating privilege suspension begins when the person first becomes eligible for issuance, renewal, or reinstatement of an operator's license. This bill also eliminates the requirement that a nonresident whose operating privilege is revoked in this state obtain a valid operator's license issued by his or her resident state as a condition of reinstatement by DOT of the nonresident's operating privilege.

Current law provides in most cases for automatic reinstatement of a person's suspended operating privilege after the period of operating privilege suspension has terminated and the person has paid the reinstatement fee. However, after revocation of a person's operating privilege, disqualification of a person's authorization to operate a commercial motor vehicle, or cancellation of a person's operator's license, in most cases reinstatement requires DOT to issue a new operator's license. Reinstated licenses expire two years from the person's next birthday.

This bill provides for automatic reinstatement of a person's revoked operating privilege if the applicable period of revocation has expired and the person has applied

for reinstatement and paid to DOT the applicable fee. The bill also provides for automatic reinstatement of a person's canceled operator's license or identification card if the cancellation occurred for specified reasons, the person has paid to DOT the applicable fee, and the reasons for the cancellation have been rectified.

The bill clarifies the general requirements for reinstatement of a person's authorization to operate a commercial motor vehicle. Under the bill, upon a person's application for reinstatement, DOT may reinstate the person's authorization to operate a commercial motor vehicle and issue a commercial driver license to the person if the person has paid the required fees and taken any examination required by DOT; however, DOT may not do so during any period of disqualification under state or federal law, under the law of another jurisdiction disqualifying the person from operating a commercial motor vehicle under circumstances similar to those specified in state or federal law, or under a federal agency determination that the person is no longer qualified to operate a commercial motor vehicle. The bill also provides for automatic reinstatement if the disqualification results from the issuance of a 24-hour out-of-service order. The bill eliminates the two-year expiration period for reinstated licenses if the license is canceled on a basis for which automatic reinstatement applies.

Under current law, a court may suspend a person's operating privilege for any period not exceeding six months upon the person's conviction for operating after revocation (OAR) or operating while suspended (OWS) or operating a commercial motor vehicle during a period in which the person is disqualified (OWD). However, a court must revoke a person's operating privilege, for a period of six months or less, upon the person's conviction for OAR, OWS, or OWD if the person has been convicted of three or more prior violations of OAR, OWS, or OWD within the preceding five-year period. In addition, DOT must administratively revoke a person's operating privilege, for a period of six months unless the court has ordered a revocation for a lesser period, upon receiving a record of conviction showing that the person has been convicted of OAR, OWS, or OWD if the person has been convicted of three or more prior violations of OAR, OWS, or OWD within the preceding five-year period.

This bill makes court-ordered operating privilege revocation for a fourth offense OAR, OWS, or OWD permissive rather than mandatory and eliminates the requirement that DOT administratively revoke a person's operating privilege for a fourth offense OAR, OWS, or OWD.

For further information see the *state and local* 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. 118.163 (2) (a) of the statutes is amended to read:

1 118.163 (2) (a) Suspension of the person's operating privilege for not less than
2 30 days nor more than one year. The court ~~shall immediately~~ may take possession
3 of any suspended license ~~and forward it.~~ If the court takes possession of a license,
4 it shall destroy the license. The court shall forward to the department of
5 transportation ~~together with~~ a notice stating the reason for and the duration of the
6 suspension.

7 SECTION 2. 118.163 (2m) (a) of the statutes is amended to read:

8 118.163 (2m) (a) A county, city, village or town may enact an ordinance
9 permitting a court to suspend the operating privilege of a person who is at least 16
10 years of age but less than 18 years of age and is a dropout. The ordinance shall
11 provide that the court may suspend the person's operating privilege until the person
12 reaches the age of 18. The court ~~shall immediately~~ may take possession of any
13 suspended license ~~and forward it.~~ If the court takes possession of a license, it shall
14 destroy the license. The court shall forward to the department of transportation
15 ~~together with~~ a notice stating the reason for and the duration of the suspension.

16 SECTION 3. 343.03 (1) (b) of the statutes is amended to read:

17 343.03 (1) (b) The department shall issue operator's licenses in conformity with
18 the classified driver license system to each licensee upon renewal, ~~reinstatement or~~
19 initial application, or cancellation under s. 343.26 (1).

20 SECTION 4. 343.05 (1) (a) of the statutes is amended to read:

21 343.05 (1) (a) Except as provided in this subsection, no person may at any time
22 have more than one operator's license. This prohibition includes, without limitation,
23 having licenses from more than one state, having licenses under more than one name
24 or birthdate, ~~having an occupational license without having surrendered the revoked~~
25 ~~or suspended license document,~~ and having more than one license issued for the

1 operation of different types or classes of vehicles. This paragraph does not apply to
2 any person who has only operator's licenses issued by this state and by a country,
3 province, or subdivision that is a party to an agreement under s. 343.16 (1) (d).

4 **SECTION 5.** 343.06 (2) of the statutes is amended to read:

5 343.06 (2) The department shall not issue a commercial driver license,
6 including a renewal or reinstated license, to any person, or reinstate a person's
7 authorization to operate a commercial motor vehicle, during any period of
8 disqualification under s. 343.315 or 49 CFR 383.51 ~~or, under~~ the law of another
9 jurisdiction ~~in substantial conformity therewith, as the result of one or more~~
10 ~~disqualifying offenses committed on or after July 1, 1987, disqualifying a person~~
11 from operating a commercial motor vehicle under circumstances similar to those
12 specified in s. 343.315 or 49 CFR 383.51, or under a determination by the federal
13 motor carrier safety administration that the person is no longer qualified to operate
14 a commercial motor vehicle under 49 CFR 391, or to any person whose operating
15 privilege is revoked, suspended, or canceled. Any person who is known to the
16 department to be subject to disqualification as described in s. 343.44 (1) (d) shall be
17 disqualified by the department as provided in s. 343.315.

18 **SECTION 6.** 343.10 (2) (a) 3. of the statutes is repealed.

19 **SECTION 7.** 343.20 (1) (a) of the statutes is amended to read:

20 343.20 (1) (a) Except as otherwise expressly provided in this chapter,
21 ~~reinstated licenses, probationary licenses issued under s. 343.085, licenses issued~~
22 after cancellation under s. 343.26 (1), and original licenses other than instruction
23 permits shall expire 2 years from the date of the applicant's next birthday. Subject
24 to s. 343.125 (3), all other licenses and license endorsements shall expire 8 years after
25 the date of issuance. The department may institute any system of initial license

1 issuance which it deems advisable for the purpose of gaining a uniform rate of
2 renewals. In order to put such a system into operation, the department may issue
3 licenses which are valid for any period less than the ordinary effective period of such
4 license. If the department issues a license that is valid for less than the ordinary
5 effective period as authorized by this paragraph, the fees due under s. 343.21 (1) (a),
6 (b) and (d) shall be prorated accordingly.

7 **SECTION 8.** 343.20 (1) (a) of the statutes, as affected by 2007 Wisconsin Act 20
8 and 2009 Wisconsin Act ... (this act), is repealed and recreated to read:

9 343.20 (1) (a) Except as otherwise expressly provided in this chapter,
10 probationary licenses issued under s. 343.085, licenses issued after cancellation
11 under s. 343.26 (1), and original licenses other than instruction permits shall expire
12 2 years from the date of the applicant's next birthday. Subject to s. 343.125 (3), all
13 other licenses and license endorsements shall expire 8 years after the date of
14 issuance. The department may institute any system of initial license issuance which
15 it deems advisable for the purpose of gaining a uniform rate of renewals. In order
16 to put such a system into operation, the department may issue licenses which are
17 valid for any period less than the ordinary effective period of such license. If the
18 department issues a license that is valid for less than the ordinary effective period
19 as authorized by this paragraph, the fees due under s. 343.21 (1) (b) and (d) shall be
20 prorated accordingly.

21 **SECTION 9.** 343.26 of the statutes is renumbered 343.26 (1) and amended to
22 read:

23 343.26 (1) Any Except as provided in sub. (2), any person whose license has
24 been canceled, whether the license has been canceled by the secretary or stands
25 canceled as a matter of law, may apply for a new license at any time. Upon receipt

1 of the application and all required fees, the department shall issue or refuse issuance
2 of the license as upon an original application. The department may, but need not,
3 require the applicant to submit to an examination as provided in s. 343.16.

4 **SECTION 10.** 343.26 (1) of the statutes, as affected by 2007 Wisconsin Act 20,
5 section 3291, and 2009 Wisconsin Act ... (this act), is repealed and recreated to read:

6 343.26 (1) Except as provided in sub. (2), any person whose license has been
7 canceled, whether the license has been canceled by the secretary or stands canceled
8 as a matter of law, may apply for a new license at any time. Upon receipt of the
9 application and all required fees, and after processing the application as provided in
10 s. 343.165, the department shall issue or refuse issuance of the license as upon an
11 original application. The department may, but need not, require the applicant to
12 submit to an examination as provided in s. 343.16.

13 **SECTION 11.** 343.26 (2) of the statutes is created to read:

14 343.26 (2) If a person's license has been canceled under s. 343.25 (2) or (3), or
15 canceled because of the person's nonpayment of a fee, the person's license may be
16 reinstated as provided in s. 343.38 (3g).

17 **SECTION 12.** 343.28 (2) of the statutes is amended to read:

18 343.28 (2) Whenever a person is convicted of any offense for which s. 343.31
19 makes mandatory the revocation by the secretary of such person's operating
20 privilege, the court in which the conviction occurred shall may require the surrender
21 to it of any license then held by such person. If the court requires surrender of a
22 license, the court shall destroy the license. The clerk of the court, or the justice, judge
23 or magistrate if the court has no clerk, shall, as provided in s. 345.48, forward to the
24 department the record of conviction ~~and any surrendered licenses. The record of~~
25 ~~conviction forwarded to the department, which~~ shall state whether the offender was

1 involved in an accident at the time of the offense, whether the offender was operating
2 a commercial motor vehicle at the time of the offense and, if so, whether the offender
3 was transporting hazardous materials requiring placarding or any quantity of a
4 material listed as a select agent or toxin under 42 CFR 73, or was operating a vehicle
5 designed to carry, or actually carrying, 16 or more passengers, including the driver.

6 **SECTION 13.** 343.28 (3) of the statutes is amended to read:

7 343.28 (3) If a person is convicted of committing a violation as defined by s.
8 343.30 (6) (a), the clerk of the court, or the justice, judge or magistrate if the court
9 has no clerk, shall, as provided in s. 345.48, forward to the department the record of
10 conviction and any surrendered licenses.

11 **SECTION 14.** 343.30 (1g) (b) of the statutes is amended to read:

12 343.30 (1g) (b) A court shall may revoke a person's operating privilege upon the
13 person's conviction for violating s. 343.44 (1) (a), (b), or (d) or a local ordinance in
14 conformity therewith if the person has been convicted of 3 or more prior violations
15 of s. 343.44 (1) (a), (b), or (d), or similar violations under s. 343.44 (1), 1997 stats., or
16 a local ordinance in conformity therewith, within the 5-year period preceding the
17 violation. ~~The~~ Any revocation under this paragraph shall be for a period of 6 months,
18 unless the court orders a period of revocation of less than 6 months and places its
19 reasons for ordering the lesser period of revocation on the record.

20 **SECTION 15.** 343.30 (4) of the statutes is amended to read:

21 343.30 (4) Whenever a court ~~or judge~~ suspends or revokes an operating
22 privilege under this section, the court ~~or judge shall immediately~~ may take
23 possession of any suspended or revoked license ~~and. If the court takes possession of~~
24 a license, it shall destroy the license. The court shall forward it, as provided in s.
25 345.48, to the department ~~together with~~ the record of conviction and notice of

1 suspension or revocation. Whenever a court ~~or judge~~ restricts the operating privilege
2 of a person, the court ~~or judge~~ shall forward notice of the restriction to the
3 department.

4 **SECTION 16.** 343.30 (6) (d) of the statutes is amended to read:

5 343.30 (6) (d) If the person subject to suspension under this subsection does not
6 hold a valid license under this chapter other than a license under s. 343.07 or 343.08
7 on the date of disposition, the suspension under par. (b) shall commence on the date
8 ~~that such a license would otherwise be reinstated or issued after the person applies~~
9 ~~and qualifies for issuance or 2 years from the date of disposition, whichever occurs~~
10 first on which the person is first eligible for issuance, renewal, or reinstatement of
11 an operator's license under this chapter.

12 **SECTION 17.** 343.305 (7) (a) of the statutes is amended to read:

13 343.305 (7) (a) If a person submits to chemical testing administered in
14 accordance with this section and any test results indicate the presence of a detectable
15 amount of a restricted controlled substance in the person's blood or a prohibited
16 alcohol concentration, the law enforcement officer shall report the results to the
17 department ~~and take possession of the person's license and forward it to the~~
18 ~~department.~~ The person's operating privilege is administratively suspended for 6
19 months.

20 **SECTION 18.** 343.305 (7) (b) of the statutes is amended to read:

21 343.305 (7) (b) If a person who was driving or operating or on duty time with
22 respect to a commercial motor vehicle submits to chemical testing administered in
23 accordance with this section and any test results indicate an alcohol concentration
24 above 0.0, the law enforcement officer ~~may take possession of the person's license and~~
25 ~~retain the license for 24 hours. The person may reclaim a seized license in person~~

1 ~~or request return of the license by mail. The law enforcement officer~~ shall issue a
2 citation for violation of s. 346.63 (7) (a) 1., issue citations for such other violations as
3 may apply and issue an out-of-service order to the person for the 24 hours after the
4 testing, and report both the out-of-service order and the test results to the
5 department in the manner prescribed by the department. If the person is a
6 nonresident, the department shall report issuance of the out-of-service order to the
7 driver licensing agency in the person's home jurisdiction.

8 **SECTION 19.** 343.305 (9) (a) (intro.) of the statutes is amended to read:

9 343.305 **(9)** (a) (intro.) If a person refuses to take a test under sub. (3) (a), the
10 law enforcement officer shall immediately take possession of the person's license and
11 prepare a notice of intent to revoke, by court order under sub. (10), the person's
12 operating privilege. If the person was driving or operating a commercial motor
13 vehicle, the officer shall issue an out-of-service order to the person for the 24 hours
14 after the refusal and notify the department in the manner prescribed by the
15 department. The officer shall issue a copy of the notice of intent to revoke the
16 privilege to the person and submit or mail a copy with the person's license to the
17 circuit court for the county in which the arrest under sub. (3) (a) was made or to the
18 municipal court in the municipality in which the arrest was made if the arrest was
19 for a violation of a municipal ordinance under sub. (3) (a) and the municipality has
20 a municipal court. The officer shall also mail a copy of the notice of intent to revoke
21 to the attorney for that municipality or to the district attorney for that county, as
22 appropriate, and to the department. Neither party is entitled to pretrial discovery
23 in any refusal hearing, except that, if the defendant moves within 30 days after the
24 initial appearance in person or by an attorney and shows cause therefor, the court
25 may order that the defendant be allowed to inspect documents, including lists of

1 names and addresses of witnesses, if available, and to test under s. 804.09, under
2 such conditions as the court prescribes, any devices used by the plaintiff to determine
3 whether a violation has been committed. The notice of intent to revoke the person's
4 operating privilege shall contain substantially all of the following information:

5 **SECTION 20.** 343.305 (9) (am) (intro.) of the statutes is amended to read:

6 343.305 (9) (am) (intro.) If a person driving or operating or on duty time with
7 respect to a commercial motor vehicle refuses a test under sub. (3) (am), the law
8 enforcement officer shall immediately ~~take possession of the person's license,~~ issue
9 an out-of-service order to the person for the 24 hours after the refusal and notify the
10 department in the manner prescribed by the department, and prepare a notice of
11 intent to revoke, by court order under sub. (10), the person's operating privilege. The
12 officer shall issue a copy of the notice of intent to revoke the privilege to the person
13 and submit or mail a copy ~~with the person's license~~ to the circuit court for the county
14 in which the refusal is made or to the municipal court in the municipality in which
15 the refusal is made if the person's refusal was in violation of a municipal ordinance
16 and the municipality has a municipal court. The officer shall also mail a copy of the
17 notice of intent to revoke to the attorney for that municipality or to the district
18 attorney for that county, as appropriate, and to the department. Neither party is
19 entitled to pretrial discovery in any refusal hearing, except that, if the defendant
20 moves within 30 days after the initial appearance in person or by an attorney and
21 shows cause therefor, the court may order that the defendant be allowed to inspect
22 documents, including lists of names and addresses of witnesses, if available, and to
23 test under s. 804.09, under such conditions as the court prescribes, any devices used
24 by the plaintiff to determine whether a violation has been committed. The notice of

1 intent to revoke the person's operating privilege shall contain substantially all of the
2 following information:

3 **SECTION 21.** 343.31 (1) (hm) of the statutes is repealed.

4 **SECTION 22.** 343.315 (3) (a) of the statutes is amended to read:

5 343.315 (3) (a) ~~Notwithstanding s. 343.39, if~~ If a person's license or operating
6 privilege is revoked or suspended as the result of an offense committed after
7 March 31, 1992, which results in disqualification under sub. (2), the department
8 shall immediately disqualify the person from operating a commercial motor vehicle
9 for the period required under sub. (2). ~~The Notwithstanding s. 343.38 (3r), the~~
10 person's authorization to operate a commercial motor vehicle shall not be reinstated
11 upon expiration of the period of revocation or suspension unless the period of
12 disqualification has also expired. During any period of disqualification in which the
13 person's license or operating privilege is not revoked or suspended, the department
14 may issue an operator's license to the person for the operation of vehicles other than
15 commercial motor vehicles.

16 **SECTION 23.** 343.315 (3) (b) of the statutes is amended to read:

17 343.315 (3) (b) If a person's license or operating privilege is not otherwise
18 revoked or suspended as the result of an offense committed after March 31, 1992,
19 which results in disqualification under sub. (2) (a) to (f), (h), (i), or (j), the department
20 shall immediately disqualify the person from operating a commercial motor vehicle
21 for the period required under sub. (2) (a) to (f), (h), (i), or (j). Upon proper application
22 by the person and payment of the fees specified in s. 343.21 (1) (L) and (n), the
23 department may issue a separate license authorizing only the operation of vehicles
24 other than commercial motor vehicles. ~~Upon expiration of the period of~~

1 ~~disqualification, the person may apply for authorization to operate commercial~~
2 ~~motor vehicles under s. 343.26.~~

3 SECTION 24. 343.32[✓] (1m) (d) of the statutes is amended to read:

4 343.32 (1m) (d) If the person's license or operating privilege is currently
5 suspended or revoked or the person does not currently possess a valid operator's
6 license issued under this chapter, the suspension or revocation under this subsection
7 is effective on the date on which the person is first eligible and applies for issuance,
8 renewal, or reinstatement of an operator's license under this chapter.

9 SECTION 25. 343.38[✓] (title) of the statutes is amended to read:

10 343.38 (title) **License Reinstatement after revocation or, suspension;**
11 ~~reinstatement of nonresident's operating privilege, cancellation, or~~
12 ~~disqualification.~~

13 SECTION 26. 343.38[✓] (1) (intro.) of the statutes is amended to read:

14 343.38 (1) LICENSE REINSTATEMENT AFTER REVOCATION. (intro.) Except as
15 provided in ss. 343.10, 343.39, and 351.07, the department shall not issue a license
16 to reinstate the operating privilege of a person whose operating privilege has been
17 duly revoked unless the period of revocation has expired and such the person:

18 SECTION 27. 343.38[✓] (1) (a) of the statutes is amended to read:

19 343.38 (1) (a) ~~Files with Pays to~~ the department ~~an application for license~~
20 ~~together with all required fees; and~~

21 SECTION 28. 343.38[✓] (2) of the statutes is amended to read:

22 343.38 (2) REINSTATEMENT OF NONRESIDENT'S OPERATING PRIVILEGE AFTER
23 REVOCATION BY WISCONSIN. A nonresident's operating privilege revoked or suspended
24 under the laws of this state is reinstated as a matter of law when the period of
25 revocation or suspension has expired and such the nonresident obtains a valid

1 operator's license issued by the jurisdiction of the nonresident's residence and pays
2 the fees specified in s. 343.21 (1) (j) and (n).

3 **SECTION 29.** 343.38 (3) of the statutes is amended to read:

4 343.38 (3) REINSTATEMENT AFTER SUSPENSION. Except as provided in sub. (2) and
5 s. 343.10, the department shall not issue a license to reinstate the operating privilege
6 of a person whose operating privilege has been duly suspended while the suspension
7 remains in effect. Upon the expiration of the period of suspension, the person's
8 operating privilege is reinstated as provided in s. 343.39 upon receipt by the
9 department of the fees specified in s. 343.21 (1) (j) and (n) and, for reinstatement of
10 an operating privilege suspended under ch. 344, the filing with the department of
11 proof of financial responsibility, if required, in the amount, form, and manner
12 specified under ch. 344.

13 **SECTION 30.** 343.38 (3g) and (3r) of the statutes are created to read:

14 343.38 (3g) REINSTATEMENT AFTER CERTAIN CANCELLATIONS. (a) The department
15 may reinstate the operator's license of a person whose operator's license has been
16 duly canceled under s. 343.25 (2) or (3) if the person pays the fees specified in s. 343.21
17 (1) (m) and (n) and either the person is at least 18 years of age or the requirements
18 specified in s. 343.15 are satisfied.

19 (b) The department may reinstate the operator's license or identification card
20 of a person whose operator's license or identification card has been duly canceled
21 because of the person's nonpayment of a fee if the person pays that fee, pays any fee
22 required by the department under s. 20.905 (2), and pays the fees specified in s.
23 343.21 (1) (m) and (n).

24 (3r) REINSTATEMENT OF COMMERCIAL DRIVING PRIVILEGES FOLLOWING
25 DISQUALIFICATION. (a) Except as provided in pars. (b) and (c), upon application for

1 reinstatement after a person's disqualification by the department, the department
2 may issue a commercial driver license to the person if the person has paid the fees
3 required under s. 343.21 (1) (jm) and (n), taken any examination required by the
4 department under s. 343.16, and satisfied any other requirement under this chapter
5 for reinstatement.

6 (b) Any disqualification under s. 343.315 (2) (g) terminates at the beginning of
7 the 25th hour following issuance of the citation specified in s. 343.315 (2) (g). If a
8 person has been disqualified solely on the basis of s. 343.315 (2) (g), the person's
9 authorization to operate a commercial motor vehicle is automatically reinstated
10 upon termination of the disqualification, as provided in this paragraph, and no
11 application or fee is required for reinstatement.

12 (c) If a person is authorized to operate a commercial motor vehicle under s.
13 343.055, the person's authorization to operate a commercial motor vehicle may be
14 reinstated without issuance of a commercial driver license to the person.

15 **SECTION 31.** 343.39 (1) (a) of the statutes is repealed.

16 **SECTION 32.** 343.39 (1) (b) of the statutes is amended to read:

17 343.39 (1) (b) When, in the case of a revocation ~~or~~, suspension, or
18 disqualification based on a conviction, the conviction is reversed, set aside or
19 vacated. This paragraph applies whether or not the conviction occurred in this state
20 and whether or not the conviction was cause for revocation ~~or~~, suspension, or
21 disqualification only when considered in connection with the person's ~~previous~~ entire
22 operating record.

23 **SECTION 33.** 343.39 (2) of the statutes is amended to read:

24 343.39 (2) Whenever a person's operating privilege is automatically reinstated,
25 the department shall forthwith notify such person thereof ~~and shall return any~~

1 ~~surrendered and unexpired license in its possession.~~ If the person's license is expired
2 ~~during the period of revocation or suspension, such, the~~ person may renew the license
3 at the standard renewal fee at any time ~~within 30 days~~ after the reinstatement of the
4 person's operating privilege. If the person states to the department that he or she
5 no longer possesses the license because the license was surrendered to a court, and
6 the person has satisfied all requirements under sub. (1), the department shall issue
7 a new license without any additional fee for the license.

8 **SECTION 34.** 343.39 (3) of the statutes is renumbered 343.13 (3) and amended
9 to read:

10 343.13 (3) If a court has ordered that ~~the~~ a person's operating privilege be
11 restricted for a period of time after the ~~suspension~~ person's operating privilege
12 revocation period is completed to operating vehicles equipped with an ignition
13 interlock device, the license shall include that restriction.

14 **SECTION 35.** 345.24 (2) of the statutes is amended to read:

15 345.24 (2) If the person was issued an out-of-service order under s. 343.305
16 (7) (b), the person may be released as provided under sub. (1) ~~but the person's license~~
17 ~~may be retained until the out-of-service period has expired.~~

18 **SECTION 36.** 345.47 (1) (c) of the statutes is amended to read:

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

1 hours after the order of suspension. If the forfeiture, plus costs, fees, and surcharges
2 imposed under ch. 814, are paid during a period of suspension, the court ~~or judge~~
3 shall immediately notify the department. ~~Upon receipt of the notice and payment~~
4 ~~of the fees under s. 343.21 (1) (j) and (n), the department shall return the surrendered~~
5 ~~license.~~

6 **SECTION 37.** 345.48 (2) of the statutes is amended to read:

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

14 **SECTION 38.** 345.48 (3) of the statutes is repealed.

15 **SECTION 39.** 345.48 (4) of the statutes is amended to read:

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

20 **SECTION 40.** 800.09 (1) (c) of the statutes is amended to read:

21 800.09 (1) (c) The court may suspend the defendant's operating privilege, as
22 defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments
23 and costs are paid, if the defendant has not done so within 60 days after the date the
24 restitution or payments or both are to be made under par. (a) and has not notified the
25 court that he or she is unable to comply with the judgment, as provided under s.

1 800.095 (4) (a), except that the suspension period may not exceed 2 years. The court
2 ~~shall~~ may take possession of the suspended license ~~and shall~~. If the court takes
3 possession of a license, it shall destroy the license. The court shall forward the
4 license, along with a notice of the suspension clearly stating that the suspension is
5 for failure to comply with a judgment of the court, to the department of
6 transportation. This paragraph does not apply if the forfeiture is assessed for
7 violation of an ordinance that is unrelated to the violator's operation of a motor
8 vehicle.

9 **SECTION 41.** 938.17 (2) (d) 2. of the statutes is amended to read:

10 938.17 (2) (d) 2. If a court suspends a license or privilege under subd. 1., the
11 court shall immediately take possession of the applicable license ~~and forward it if~~
12 issued under ch. 29 or, if the license is issued under ch. 343, the court may take
13 possession of, and if possession is taken, shall destroy, the license. The court shall
14 forward to the department that issued the license, ~~together with the notice of~~
15 suspension stating that the suspension is for failure to pay a forfeiture imposed by
16 the court, together with any license issued under ch. 29 of which the court takes
17 possession. If the forfeiture is paid during the period of suspension, the court shall
18 immediately notify the department, which shall then, if the license is issued under
19 ch. 29, return the license to the person.

20 **SECTION 42.** 938.34 (8) of the statutes is amended to read:

21 938.34 (8) Impose a forfeiture based upon a determination that this disposition
22 is in the best interest of the juvenile and the juvenile's rehabilitation. The maximum
23 forfeiture that the court may impose under this subsection for a violation by a
24 juvenile is the maximum amount of the fine that may be imposed on an adult for
25 committing that violation or, if the violation is applicable only to a person under 18

1 years of age, \$100. The order shall include a finding that the juvenile alone is
2 financially able to pay the forfeiture and shall allow up to 12 months for payment.
3 If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture and order
4 other alternatives under this section; or the court may suspend any license issued
5 under ch. 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's
6 operating privilege, as defined in s. 340.01 (40), for not more than 2 years. If the court
7 suspends any license under this subsection, the clerk of the court shall immediately
8 take possession of the suspended license ~~and forward it if issued under ch. 29 or, if~~
9 the license is issued under ch. 343, the court may take possession of, and if possession
10 is taken, shall destroy, the license. The court shall forward to the department which
11 issued the license, ~~together with~~ a notice of suspension stating that the suspension
12 is for failure to pay a forfeiture imposed by the court, together with any license issued
13 under ch. 29 of which the court takes possession. If the forfeiture is paid during the
14 period of suspension, the suspension shall be reduced to the time period which has
15 already elapsed and the court shall immediately notify the department which shall
16 then, if the license is issued under ch. 29, return the license to the juvenile. Any
17 recovery under this subsection shall be reduced by the amount recovered as a
18 forfeiture for the same act under s. 938.45 (1r) (b).

19 **SECTION 43.** 938.34 (8d) (d) of the statutes is amended to read:

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

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

11 **SECTION 44.** 938.34 (14m) of the statutes is amended to read:

12 938.34 (14m) Restrict or suspend the operating privilege, as defined in s.
13 340.01 (40), of a juvenile who is adjudicated delinquent under a violation of any law
14 in which a motor vehicle is involved. If the court suspends a juvenile's operating
15 privilege under this subsection, the court ~~shall immediately~~ may take possession of
16 the suspended license ~~and forward it.~~ If the court takes possession of a license, it
17 shall destroy the license. The court shall forward to the department of
18 transportation ~~together with~~ a notice stating the reason for and duration of the
19 suspension. If the court limits a juvenile's operating privilege under this subsection,
20 the court shall immediately notify the department of transportation of that
21 limitation.

22 **SECTION 45.** 938.34 (14r) (a) of the statutes is amended to read:

23 938.34 (14r) (a) In addition to any other dispositions imposed under this
24 section, if the juvenile is found to have violated ch. 961, the court shall suspend the
25 juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 6 months

1 nor more than 5 years. The court ~~shall immediately~~ may take possession of any
2 suspended license ~~and forward it.~~ If the court takes possession of a license, it shall
3 destroy the license. The court shall forward to the department of transportation
4 ~~together with~~ the notice of suspension stating that the suspension or revocation is
5 for a violation of ch. 961.

6 **SECTION 46.** 938.34 (14r) (c) of the statutes is amended to read:

7 938.34 (14r) (c) If the juvenile's license or operating privilege is currently
8 suspended or revoked or if the juvenile does not currently possess a valid operator's
9 license issued under ch. 343, the suspension under this subsection is effective on the
10 date on which the juvenile is first eligible ~~and applies~~ for issuance or reinstatement
11 of an operator's license under ch. 343.

12 **SECTION 47.** 938.342 (1g) (a) of the statutes is amended to read:

13 938.342 (1g) (a) Suspend the person's operating privilege, as defined in s.
14 340.01 (40), for not less than 30 days nor more than one year. The court ~~shall~~
15 ~~immediately may~~ take possession of the suspended license ~~and forward it.~~ If the
16 court takes possession of a license, it shall destroy the license. The court shall
17 forward to the department of transportation ~~together with~~ a notice stating the reason
18 for and duration of the suspension.

19 **SECTION 48.** 938.343 (2) of the statutes is amended to read:

20 938.343 (2) FORFEITURE. Impose a forfeiture not to exceed the maximum
21 forfeiture that may be imposed on an adult for committing that violation or, if the
22 violation is only applicable to a person under 18 years of age, \$50. The order shall
23 include a finding that the juvenile alone is financially able to pay and shall allow up
24 to 12 months for the payment. If a juvenile fails to pay the forfeiture, the court may
25 suspend any license issued under ch. 29 or suspend the juvenile's operating privilege,

1 as defined in s. 340.01 (40), for not more than 2 years. The court shall immediately
2 take possession of the suspended license ~~and forward it~~ if issued under ch. 29 or, if
3 the license is issued under ch. 343, the court may take possession of, and if possession
4 is taken, shall destroy, the license. The court shall forward to the department which
5 issued the license, ~~together with~~ the notice of suspension stating that the suspension
6 is for failure to pay a forfeiture imposed by the court, together with any license issued
7 under ch. 29 of which the court takes possession. If the forfeiture is paid during the
8 period of suspension, the court shall immediately notify the department, which shall,
9 if the license is issued under ch. 29, return the license to the person. Any recovery
10 under this subsection shall be reduced by the amount recovered as a forfeiture for
11 the same act under s. 938.45 (1r) (b).

12 **SECTION 49.** 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 any
15 suspended license ~~and forward it.~~ If the court takes possession of a license, it shall
16 destroy the license. The court shall forward to the department of transportation,
17 ~~together with~~ the notice of suspension stating that the suspension is for a violation
18 under s. 961.573 (2), 961.574 (2), or 961.575 (2), or a local ordinance that strictly
19 conforms to one of those statutes.

20 **SECTION 50.** 938.344 (2e) (c) of the statutes is amended to read:

21 938.344 (2e) (c) If the juvenile's license or operating privilege is currently
22 suspended or revoked or the juvenile does not currently possess a valid operator's
23 license under ch. 343, the suspension under this subsection is effective on the date
24 on which the juvenile is first eligible ~~and applies~~ for issuance or reinstatement of an
25 operator's license under ch. 343.

1 ✓
SECTION 51. 938.355 (6) (d) 2. of the statutes is amended to read:

2 938.355 **(6)** (d) 2. Suspension of or limitation on the use of the juvenile's
3 operating privilege, as defined under s. 340.01 (40), or of any approval issued under
4 ch. 29 for a period of not more than 3 years. If the juvenile does not hold a valid
5 operator's license under ch. 343, other than an instruction permit under s. 343.07 or
6 a restricted license under s. 343.08, on the date of the order issued under this
7 subdivision, the court may order the suspension to begin on the date ~~that the~~
8 ~~operator's license would otherwise be reinstated or issued after the juvenile applies~~
9 ~~and qualifies for issuance or 2 years after the date of the order issued under this~~
10 ~~subdivision, whichever occurs first~~ on which the juvenile is first eligible for issuance
11 or reinstatement of an operator's license under ch. 343. If the court suspends the
12 juvenile's operating privileges or an approval issued under ch. 29, the court shall
13 immediately take possession of the suspended license ~~or approval and forward it~~ may
14 take possession of, and if possession is taken, shall destroy, the suspended license.
15 The court shall forward to the department that issued it, together with the license
16 or approval the notice of suspension, together with any approval of which the court
17 takes possession.

18 ✓
SECTION 52. 938.355 (6m) (a) 1m. of the statutes is amended to read:

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

1 ~~qualifies for issuance or 2 years after the date of the order issued under this~~
2 ~~subdivision, whichever occurs first on which the juvenile is first eligible for issuance~~
3 ~~or reinstatement of an operator's license under ch. 343.~~ If the court suspends a
4 juvenile's operating privilege or an approval issued under ch. 29, the court shall
5 immediately take possession of the suspended ~~license or approval and forward it~~ may
6 take possession of, and if possession is taken, shall destroy, the suspended license.
7 The court shall forward to the department that issued the license or approval with
8 a notice stating the reason for and the duration of the suspension, together with any
9 approval of which the court takes possession.

10 **SECTION 53.** 961.50 (1) (intro.) of the statutes is amended to read:

11 961.50 **(1)** (intro.) If a person is convicted of any violation of this chapter, the
12 court shall, in addition to any other penalties that may apply to the crime, suspend
13 the person's operating privilege, as defined in s. 340.01 (40), for not less than 6
14 months nor more than 5 years. The court ~~shall immediately~~ may take possession of
15 any suspended license ~~and forward it.~~ If the court takes possession of a license, it
16 shall destroy the license. The court shall forward to the department of
17 transportation ~~together with~~ the record of conviction and notice of the suspension.
18 The person is eligible for an occupational license under s. 343.10 as follows:

19 **SECTION 54.** 961.50 (3) of the statutes is amended to read:

20 961.50 **(3)** If the person's license or operating privilege is currently suspended
21 or revoked or the person does not currently possess a valid operator's license issued
22 under ch. 343, the suspension or revocation under this section is effective on the date
23 on which the person is first eligible ~~and applies~~ for issuance, renewal, or
24 reinstatement of an operator's license under ch. 343.

25 **SECTION 55. Initial applicability.**

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

-0714/pldn
LRB-07137P1dm
ARG:bjk:jf
stays

December 3, 2008

ATTN: [REDACTED] Cindy McGinnis

Please review the attached draft carefully to ensure that it is consistent with your intent.

I retained in its entirety the treatment of s. 343.38 (2) in 2007 AB-818. Please advise if this is not consistent with your intent.

I have added new treatments of ss. 343.28 (3) and 345.24 (2) to this draft, which I believe are necessary for consistency. Please advise if you believe inclusion of these new treatments is not appropriate.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft.

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

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

LRB-0714/P1dn
ARG:bjk:jf

December 4, 2008

ATTN: Cindy McGinnis

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

Gary, Aaron

From: Mcginnis, Cindy
Sent: Wednesday, January 14, 2009 1:25 PM
To: Gary, Aaron
Subject: FW: Draft review: LRB 09-0714/P1 Topic: Motor vehicle operating privileges and operator's license seizure
Attachments: LRB-0714_P1; LRB-0714_P1 Drafters_Note

Aaron-

This draft is fine as is so you can convert it to a regular /1 draft.

Thanks

Cindy McGinnis
Office of State Representative Tamara Grigsby
324 East State Capitol
PO Box 8952
Madison, WI 53708
1-888-534-0018 - toll free
(608) 266-0645
(608) 282-3618 - fax

From: Basford, Sarah
Sent: Thursday, December 04, 2008 9:58 AM
To: Rep.Grigsby
Subject: Draft review: LRB 09-0714/P1 Topic: Motor vehicle operating privileges and operator's license seizure

Following is the PDF version of draft LRB 09-0714/P1 and drafter's note.