



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4385/1
EVM&JK:all

2015 SENATE BILL 559

January 12, 2016 – Introduced by LAW REVISION COMMITTEE. Referred to Committee on Senate Organization.

1 **AN ACT** *to repeal* 20.566 (1) (gm), 85.07 (6), 85.515 and subchapter IV of chapter
2 139 [precedes 139.87]; and *to amend* 343.165 (1) (intro.), 343.165 (4) (a),
3 343.165 (5), 343.165 (7) (a) 2. and 343.165 (7) (b) of the statutes; **relating to:**
4 certain drinking age reports, the effective date of certain changes to the
5 requirements for issuing operator’s licenses and identification cards, and
6 repealing the tax on controlled substances (suggested as remedial legislation
7 by the Department of Transportation).

Analysis by the Legislative Reference Bureau

Current law requires the Department of Transportation to study the impact of raising the legal drinking age to 21 and report the results to the legislature by January 1, 1988, 1989, 1990, and 1991. This bill repeals this provision.

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 contained in the REAL ID Act. While the provisions of the REAL ID Act became effective on May 11, 2008, the federal Department of 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

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provisions incorporating into state law requirements contained in the REAL ID Act. However, most of these provisions were subject to a contingent effective date; the provisions would not become effective until the date specified in a notice provided by DOT after DOT had determined that it was ready to fully implement the REAL ID Act. On November 30, 2012, DOT published the required notice, stating that January 1, 2013, would be the effective date for full implementation of the REAL ID Act.

This bill removes the statutory references to the contingent effective date.

This bill repeals the occupational tax on controlled substances.

Under current law, the state imposes an occupational tax on a person who sells illegal controlled substances in this state. Before selling an illegal controlled substance, the person must pay the tax and affix tax stamps to the product in order to prove that the person paid the tax. In 2004, the Court of Appeals for the Seventh Circuit held that imposing a criminal penalty for both possessing a controlled substance and failing to pay the occupational tax on the substance violated the double jeopardy clause of the Fifth Amendment to the United States Constitution which, generally, prohibits convicting an individual twice for the same crime. See *Dye v. Frank*, 355 F.3d 1102 (2004).

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Transportation and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 20.566 (1) (gm) of the statutes is repealed.

2 **SECTION 2.** 85.07 (6) of the statutes is repealed.

NOTE: SECTION 2 repeals the statute that requires the Department of Transportation to study the impact of raising the legal drinking age to 21 and report the results to the legislature by January 1, 1988, 1989, 1990, and 1991.

3 **SECTION 3.** 85.515 of the statutes is repealed.

NOTE: SECTION 3 repeals the statute that requires the secretary of the Department of Transportation to determine whether the state is ready to fully implement the federal REAL ID Act. On November 30, 2012, the Department of Transportation published the required notice that it was ready to fully implement the federal REAL ID Act.

4 **SECTION 4.** Subchapter IV of chapter 139 [precedes 139.87] of the statutes is
5 repealed.

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NOTE: SECTIONS 1 and 4 repeal the statutory provisions relating to the occupational tax on controlled substances.

1 **SECTION 5.** 343.165 (1) (intro.) of the statutes is amended to read:

2 343.165 (1) (intro.) Subject to ss. 343.14 (3m) and 343.50 (4g), the department
3 may not complete the processing of an application for initial issuance or renewal of
4 an operator's license or identification card ~~received by the department after the date~~
5 ~~stated in the notice provided by the secretary of transportation and published in the~~
6 ~~Wisconsin Administrative Register under s. 85.515 (2) (b), and no such license or~~
7 identification card may be issued or renewed, unless the applicant presents or
8 provides, and, subject to sub. (7), the department verifies under sub. (3), all of the
9 following information:

10 **SECTION 6.** 343.165 (4) (a) of the statutes is amended to read:

11 343.165 (4) (a) Subsection (1) does not apply to an application for renewal of
12 an operator's license or identification card ~~received by the department after the date~~
13 ~~stated in the notice provided by the secretary of transportation and published in the~~
14 ~~Wisconsin Administrative Register under s. 85.515 (2) (b), if in connection with a~~
15 ~~prior application after the date stated in the notice provided by the secretary of~~
16 ~~transportation and published in the Wisconsin Administrative Register under s.~~
17 ~~85.515 (2) (b), the applicant previously presented or provided, and the department~~
18 verified under sub. (3) or (7), the information specified in sub. (1) and, if verified
19 under sub. (3), the department recorded the date on which the verification
20 procedures were completed as described in sub. (2) (b).

21 **SECTION 7.** 343.165 (5) of the statutes is amended to read:

22 343.165 (5) The department may, by rule, require that applications for
23 reinstatement of operator's licenses or identification cards, issuance of occupational

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1 licenses, reissuance of operator's licenses, or issuance of duplicate operator's licenses
2 or identification cards, ~~received by the department after the date stated in the notice~~
3 ~~provided by the secretary of transportation and published in the Wisconsin~~
4 ~~Administrative Register under s. 85.515 (2) (b),~~ be processed in a manner consistent
5 with the requirements established under this section for applications for initial
6 issuance or renewal of operator's licenses and identification cards.

NOTE: 2007 Wisconsin Act 20 contains provisions that incorporate into state law provisions relating to the effective date of the federal REAL ID Act. SECTIONS 5 to 7 remove language that refers to the undetermined future date of the notice provided by the Department of Transportation. On November 30, 2012, the Department of Transportation published the required notice that it was ready to fully implement the federal REAL ID Act effective January 1, 2013.

7 **SECTION 8.** 343.165 (7) (a) 2. of the statutes is amended to read:

8 343.165 (7) (a) 2. The operator's license or identification card is processed and
9 issued or renewed in compliance with applicable department practices and
10 procedures that were in effect ~~immediately prior to the date stated in the notice~~
11 ~~provided by the secretary of transportation and published in the Wisconsin~~
12 ~~Administrative Register under s. 85.515 (2) (b) on December 31, 2012.~~

13 **SECTION 9.** 343.165 (7) (b) of the statutes is amended to read:

14 343.165 (7) (b) In addition to other instances of original issuance or renewal,
15 this subsection specifically applies to renewals occurring after ~~the date stated in the~~
16 ~~notice provided by the secretary of transportation and published in the Wisconsin~~
17 ~~Administrative Register under s. 85.515 (2) (b), December 31, 2012,~~ of operator's
18 licenses or identification cards originally issued prior to ~~the date stated in the notice~~
19 ~~provided by the secretary of transportation and published in the Wisconsin~~
20 ~~Administrative Register under s. 85.515 (2) (b) January 1, 2013.~~

NOTE: SECTIONS 8 and 9 remove language that refers to the undetermined future date of the notice provided by the Department of Transportation regarding full

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implementation of the federal REAL ID Act and insert the appropriate dates to reflect the effective date of the full implementation of the federal REAL ID Act.

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(END)