

NOTICE OF PROPOSED GUIDANCE DOCUMENT

Operating While Suspended/Revoked

Pursuant to Wis. Stat. s. 227.112, the Wisconsin Department of Transportation is hereby seeking comment on Operating While Suspended/Revoked s.346 a proposed guidance document.

PUBLIC COMMENTS AND DEADLINE FOR SUBMISSION

Comments may be submitted to the Wisconsin Department of Transportation for 21 days by:

1. Department's website:

<https://appengine.egov.com/apps/wi/dot/guidance-docs?guidDocId=DMV42>

2. Mailing written comments to:

Division of Motor Vehicles
Wisconsin Department of Transportation
4822 Madison Yards Way
PO Box 7336
Madison, WI 53707-7336

WEBSITE LOCATION OF FINAL GUIDANCE DOCUMENT

The final version of this guidance document will be posted at wisconsin.gov to allow for ongoing comment.

AGENCY CONTACT

DOTDMVGuidanceDocs@DOT.WI.GOV



State of Wisconsin Department of Transportation

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The [2009 State Budget, Act 28](#) contains changes concerning OAR charges. The change is effective with OAR violations occurring on or after July 1, 2009. Under the previous law, first offense OAR charges were either criminal or civil offenses, depending on why the person had a revoked status.

Effective July 1, 2009, all OAR offenses may be either criminal or civil, depending on why the person has a revoked status. If the revoked status is due to an Operating While Under the Influence (OWI) type conviction listed under [§ s.343.307\(2\)](#) Wis. Stats., the OAR is criminal. If the status is revoked for other reasons, the OAR is civil.

The Wisconsin Department of Transportation suggests the following steps in determining if a OAR is civil or criminal:

1. Locate the latest, most recent reinstatement entry on the driver record.
2. Scan the entries on the driver record that were added after the latest, most recent reinstatement entry to determine the reason for the revoked status. If the record does not have a reinstatement entry, check the entire record to determine the reason for the revoked status.
3. If the revoked status is based on any of the following charge codes, the new OAR is a criminal charge: OWI, PAC, CWI, HWI, IC, CIC, HIC, OII, CII, HII, OCS, CCS, HCS, GBH, CBH, HBH, NHI, CHI, HHI, NCA, NCI, NCP, CAD, HAD, CAH, HAH, CA, HCA, CAI, HAI.
4. If the revoked status is based on other reasons, such as convictions for FSA, AEO, OWS, etc., the new charge of first offense OAR is civil.

There is no longer a violation of occupational (VOO), since [§ s.343.10\(8\)](#) has been rewritten.

Persons who are stopped and found to be in violation of restrictions on an occupational license should be cited as follows:

- If the restriction is an "occupational" restriction, such as time or place of travel, check the status of the operating privilege (suspended or revoked), and cite under [s.343.44\(1\)\(a\)](#) (OWS) or [s.343.44\(1\)\(b\)](#) (OAR). You cannot cite under [s.343.10\(8\)](#) (VOO).
- If the restriction carried over from the driver's regular license to the occupational license, such as "eyeglasses required" or "dual outside mirrors required," cite under [s.343.43\(1\)\(d\)](#), as you would a driver with a regular license.

Driver Information Section

P.O. Box 7983

Madison, WI 53707-7983

Email [Wisconsin DMV email service](#)

Phone (608) 264-7447

Fax (608) 267-3812

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