

1971 Senate Bill 161

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CHAPTER 278, Laws of 1971

AN ACT to repeal 343.29, 343.305 (2) (a) 3, 345.115, 345.135, 345.14, 345.15 and 346.65 (2m); to renumber 345.12, 345.13 and 345.16; to amend 48.17, 48.26 (3), 59.20 (8), 66.115, 66.12 (1) (a) and (b) and (2), 194.175 (1), as renumbered, 270.12 (1m) and (4), 270.125 (3), 271.21 (2), 341.11 (4), 341.15 (3) (intro.), 341.16 (4), 341.42 (4), 341.55 (intro.), 341.57 (3) (intro.), 341.63 (3), 342.05 (4), 342.15 (5), (6) and (7), 342.23 (4), 342.30 (3), 342.31 (2), 342.34 (2), 343.01 (2) (a) 1 to 4 and (d), 343.27, 343.28 (1) and (2), 343.30 (1), (1g) and (4), 343.305 (1) and (7) (c) and (d), 343.32 (1) (a) and (2), 343.325 (1) (intro.), 343.35 (2), 343.45 (3), 343.46 (4), 343.73, 344.45 (2), 344.46 (2), 344.47 (2), 344.51 (3), 345.55 (2), as renumbered, 346.17 (1) and (2), 346.22, 346.30, 346.36, 346.43, 346.49, 346.56, 346.60, 346.65 (1), (2) and (3), 346.74 (1) to (4), 346.82, 346.95, 347.30, 347.50, 348.11, 348.21 (1), (2), (3) (a) and (b) and (4), 348.28 (2) and 349.06; to repeal and recreate 66.12 (3) (a) and 288.195 (1); and to create 66.114 (4), 66.12 (1) (d), 288.103 and 345.20 to 345.53 of the statutes, relating to traffic court procedures, traffic regulation, and providing penalties.

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

SECTION 1. 48.17 of the statutes is amended to read:

48.17 Courts of criminal and civil jurisdiction shall have exclusive jurisdiction in proceedings against children 16 or older for violations of chs. 341 to 349, or of ~~county or municipal ordinances enacted under s. 349.06~~ traffic regulations as defined in s. 345.20, except that in counties having a population of 500,000 or more when the alleged violation is not associated with an alleged act of delinquency such jurisdiction shall be vested in the traffic misdemeanor court branch (Branch No. 12) and in the municipal courts to the extent of their jurisdiction. When, in counties having a population of 500,000 or more, the alleged violation is associated with an alleged act of delinquency, jurisdiction shall be vested in the "Family Court" under s. 252.017.

SECTION 2. 48.26 (3) of the statutes is amended to read:

48.26 (3) This section shall not apply to proceedings for violation of ~~any provision of chs. 340 to 349 or any county or municipal ordinance enacted under s. 349.06 ch. 349.~~

SECTION 3. 59.20 (8) of the statutes is amended to read:

59.20 (8) Retain 10 ~~per cent~~ % for fees in receiving and paying into the state treasury all moneys received by him for the state for fines and penalties, except that 50 ~~per cent~~ % of the

state forfeitures, fines and penalties under chs. 341 to 349 shall be retained as fees, and retain such other fees for receiving and paying money into the state treasury as are prescribed by law.

SECTION 4. 66.114 (4) of the statutes is created to read:

66.114 (4) This section shall not apply to ordinances enacted under ch. 349.

SECTION 5. 66.115 of the statutes is amended to read:

66.115 Where a statute requires that the penalty under any county or municipal ordinance shall conform to the penalty provided by statute such ordinance may impose only a fine forfeiture and may provide for imprisonment in case the fine forfeiture is not paid.

SECTION 6. 66.12 (1) (a) and (b) and (2) of the statutes are amended to read:

66.12 (1) (a) An action for violation of a city or village ordinance, resolution or bylaw is a civil action. All forfeitures and penalties imposed by any ordinance, resolution or bylaw of the city or village, except as provided in ss. 345.20 to 345.53, may be collected in an action in the name of the city or village before the municipal justice, or a court of record, to be commenced by warrant or summons under s. 968.04; but the marshal, constable or police officer may arrest the offender in all cases without warrant under s. 968.07. The affidavit where the action is commenced by warrant may be the complaint. The affidavit or complaint shall be sufficient if it alleges that the defendant has violated an ordinance, resolution or bylaw of the city or village, specifying the same by section, chapter, title or otherwise with sufficient plainness to identify the same. The provisions of s. 300.03 (5) pertaining to bail upon arrest shall apply to such actions. In arrests without a warrant or summons a statement on the records of the court of the offense charged shall stand as the complaint unless the court directs that formal complaint be issued. In all actions hereunder the defendant's plea shall be guilty, not guilty or no contest and shall be entered as not guilty on failure to plead, which plea of not guilty shall put all matters in such case at issue, any other provision of law notwithstanding.

(b) Local ordinances, except as provided in ss. 345.20 to 345.53, may contain a provision for stipulation of guilt or ~~nolo contendere~~ no contest of any or all violations under such ordinances, and may designate the manner in which such stipulation is to be made and fix the penalty to be paid. When a person charged with a violation for which stipulation of guilt or ~~nolo contendere~~ no contest is authorized makes a timely stipulation and pays the required penalty to the designated official, such person need not appear in court and no witness fees or other additional costs shall be taxed unless the local ordinance so provides. The official receiving the penalty shall remit all moneys collected to the treasurer of the county, city, town or village in whose behalf the sum was paid within 20 days after its receipt by him; and in case of any failure in such payment, such treasurer may collect the same of such officer by action, in his name of office, and upon the official bond of such officer, with interest at the rate of 12 ~~per cent~~ % per annum from the time when it should have been paid. The governing body of the county, city, town, village or other municipal subdivision shall by ordinance designate the official to receive such penalties and the terms under which he shall qualify.

(2) Appeals in actions to recover forfeitures and penalties imposed by any ordinance, resolution or bylaw of the city or village may be taken either by the defendant or by such municipality to the circuit court. Appeals from municipal court shall be taken under s.

300.10, ~~except that such appeals shall be perfected within 10 days after judgment is entered.~~ Appeals from county court in actions to recover forfeitures for ordinances enacted under ch. 349 shall be taken under s. 345.50. ~~All other appeals from county court shall be taken in accordance with ch. 299, except that any appeal from wherever taken shall be perfected within 20 days after judgment is entered.~~ If the appeal is taken by the defendant he shall, as a part thereof, execute a bond to the city or village with surety, to be approved by the municipal justice or judge, conditioned that if judgment ~~be is~~ affirmed in whole or in part he will pay the same and all costs and damages awarded against him on such appeal. If the judgment is affirmed in whole or in part, execution may issue against both defendant and his surety. The appellant shall pay the fees and suit taxes prescribed in s. 300.20 (3). Upon perfection of the appeal the defendant shall be discharged from custody.

SECTION 7. 66.12 (1) (d) of the statutes is created to read:

66.12 (1) (d) If the defendant desires to enter a not guilty plea, such plea may be entered by certified mail as provided in s. 345.34 (3).

SECTION 8. 66.12 (3) (a) of the statutes is repealed and recreated to read:

66.12 (3) (a) In forfeiture actions for violations of ordinances, except those under ss. 345.20 to 345.53, on default of appearance or on a plea of guilty or no contest, the clerk's fee shall be not more than \$2, but if it is necessary to issue a warrant or summons or the action is tried as a contested matter, additional fees may be added, but the total fee shall not exceed \$3.50, except that a municipality need not advance clerk's fees, but shall be exempt from payment of such fees until the defendant pays costs pursuant to this section. In forfeiture actions in which a municipality prevails, costs and disbursements shall be allowed to the municipality, subject only to such limitations as the court directs.

SECTION 9. 270.12 (1m) and (4) of the statutes are amended to read:

270.12 (1m) Criminal cases and ~~prosecution~~ prosecutions for violations of traffic regulations as defined in s. 345.20 and of municipal ordinances and appeals thereof from county and municipal courts shall be placed on the calendar of the current term.

(4) The clerk shall prepare a calendar for each term of the circuit court of all actions which are for trial as shown by the notices filed including those covered by sub. (3), containing the title of each action and the names of the attorneys, and arranged as follows: (a) criminal cases in the order of filing, ~~(ab)~~ (b) prosecutions for violations of traffic regulations as defined in s. 345.20 and municipal ordinances and appeals thereof from county and municipal courts to the circuit courts, ~~(b)~~ (c) civil jury issues, ~~and (e)~~ (d) issues of fact for court, ~~and (e)~~ issues of law in the order in which notice of trial was filed. The calendar shall be disposed of in the above order unless for convenience of parties, the dispatch of business, or the prevention of injustice, the presiding judge otherwise directs.

SECTION 10. 270.125 (3) of the statutes is amended to read:

270.125 (3) The criminal cases, traffic regulations under s. 345.20 and ordinance violation cases and appeals thereof from county and municipal courts and the first 6 civil cases on the calendar shall be subject to call for trial upon the first day of the term. The clerk shall each day make up the following day's calendar, upon which he shall place such cases as the presiding judge directs.

SECTION 11. 271.21 (2) of the statutes is amended to read:

271.21 (2) An additional suit tax of \$2 shall be collected from defendants in all actions for violations of traffic regulations ~~enacted under s. 349.06,~~ and shall be paid into the state treasury.

SECTION 12. 288.103 of the statutes is created to read:

288.103 TRAFFIC REGULATION FORFEITURES; HOW RECOVERED. Where there is a conflict with this chapter, the procedure in ch. 345 shall be followed in actions to recover forfeitures for the violation of traffic regulations as defined in s. 345.20.

SECTION 13. 288.195 (1) of the statutes is repealed and recreated to read:

288.195 (1) In forfeiture actions for violations of ordinances, except under ss. 345.20 to 345.53, on default of appearance or on a plea of guilty or no contest, the clerk's fee shall be not more than \$2, but if it is necessary to issue a warrant or summons or the action is tried as a contested matter, additional fees may be added, but the total fee shall not exceed \$3.50, except that a municipality need not advance such fees, but shall be exempt from payment of fees until the defendant pays costs under this section.

SECTION 14. 341.11 (4) of the statutes is amended to read:

341.11 (4) In the case of motor trucks, motor busses, truck tractors and road tractors, the certificate of registration must be displayed in a prominent place in the driver's compartment of the vehicle to which the certificate refers. Any person who operates and any person in whose name the vehicle is registered who consents to the operation of any such vehicle without the certificate of registration being so displayed may be fined required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both.~~

SECTION 15. 341.15 (3) (intro.) of the statutes is amended to read:

341.15 (3) (intro.) Any of the following may be fined required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both:~~

SECTION 16. 341.16 (4) of the statutes is amended to read:

341.16 (4) Any person issued replacement plates who fails to surrender his illegible ~~plate or plates~~ as required by ~~subs. (2) or sub. (3)~~ may be fined required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both.~~

SECTION 17. 341.42 (4) of the statutes is amended to read:

341.42 (4) Upon being issued a reciprocity permit, the permittee shall display such permit in the cab of his motor truck, road tractor, truck tractor or motor bus. Any person who operates on a highway in this state, and any owner who consents to the operation of a vehicle for which a reciprocity permit has been issued without displaying such the permit as required by this subsection may be fined required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both.~~

SECTION 18. 341.55 (intro.) of the statutes is amended to read:

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341.55 (intro.) Any of the following may be fin~~ed~~ required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both~~:

SECTION 19. 341.57 (3) (intro.) of the statutes is amended to read:

341.57 (3) (intro.) Any of the following may be fin~~ed~~ required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both~~:

SECTION 20. 341.63 (3) of the statutes is amended to read:

341.63 (3) Whenever the registration of a vehicle is suspended ~~pursuant to~~ under this section, the owner or person in possession of the registration plates shall forthwith return them to the division. ~~A~~ Any person who fails to return the plates as required by this section may be fin~~ed~~ required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both~~.

SECTION 21. 342.05 (4) of the statutes is amended to read:

342.05 (4) Any owner who operates or consents to the operation of a vehicle for which a certificate of title is required without such certificate having been issued or applied for or any other person who operates a vehicle for which a certificate of title is required, knowing that the certificate of title has not been issued or applied for, may be fin~~ed~~ required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both~~. A certificate is considered to have been applied for when the application accompanied by the required fee has been delivered to the division or deposited in the ~~United States~~ mail properly addressed and with postage prepaid.

SECTION 22. 342.15 (5), (6) and (7) of the statutes are amended to read:

342.15 (5) Any owner of a vehicle for which a certificate of title has been issued, who upon transfer of the vehicle fails to execute and deliver the assignment and warranty of title required by sub. (1) may be fin~~ed~~ required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both~~.

(6) Except as provided in s. 342.16, any transferee of a vehicle who fails to make application for a new certificate of title immediately upon transfer to him of a vehicle may be fin~~ed~~ required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both~~. A certificate is considered to have been applied for when the application accompanied by the required fee has been delivered to the division or deposited in the ~~United States~~ mail properly addressed with postage prepaid.

(7) Any owner of a vehicle currently registered in this state who fails to comply with the requirements of sub. (4) may be fin~~ed~~ required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both~~.

SECTION 23. 342.23 (4) of the statutes is amended to read:

342.23 (4) Any owner who fails to deliver the certificate of title to a secured party requesting it pursuant to sub. (2) shall be liable to such secured party for any loss caused to the secured party thereby and may be fin~~ed~~ required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both~~.

SECTION 24. 342.30 (3) of the statutes is amended to read:

342.30 (3) Any owner of a vehicle for which the division has issued a new identification number who fails to have such number attached or stamped as required by sub. (2) may be ~~fin~~ed required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both.~~

SECTION 25. 342.31 (2) of the statutes is amended to read:

342.31 (2) An owner of a garage or trailer park or of any type of storage or parking lot for motor vehicles shall report in writing to the division and to the local law enforcement agency the make, motor number and serial or identification number of any vehicle stored, parked or left in his garage, park or lot for a period of more than 30 consecutive days unless arrangements have been made by the owner of the vehicle for its continuous storage or parking or unless the owner of the vehicle is personally known to the owner of the garage, park or lot. Any person who fails to submit ~~the such report required of him by this subsection~~ the such report required may be ~~fin~~ed required to forfeit not more than \$25.

SECTION 26. 342.34 (2) of the statutes is amended to read:

342.34 (2) Any person violating this section may be ~~fin~~ed required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both.~~

SECTION 27. 343.01 (2) (a) 1 to 4 and (d) of the statutes are amended to read:

343.01 (2) (a) 1. A forfeiture of ~~bail or collateral deposited to secure a defendant's appearance in court~~ deposit under ss. 345.26 and 345.37, which forfeiture has not been vacated;

2. A stipulation of ~~guilt no contest~~ pursuant to s. ~~345.14~~ 345.27;

3. An adjudication of having violated a local ordinance ~~which has been enacted pursuant to s. 349.06 and which is in conformity with state law under ch. 349~~;

4. A finding by a juvenile court under ch. 48 of a violation of ~~any provision of chs. 341 to 349 or a local ordinance which is in conformity therewith~~ enacted under ch. 349.

(d) "Record of conviction" means the report of conviction furnished to the ~~department~~ division as required by this chapter, including a report of a forfeiture of ~~bail deposit~~, stipulation of ~~guilt no contest~~, adjudication of ordinance violation or finding of a juvenile court as specified in par. (a) ~~1. to 4.~~

SECTION 28. 343.27 of the statutes is amended to read:

343.27 (1) Whenever a person is charged with a violation of law which requires upon conviction that his operating privilege be revoked, the enforcement officer, city or village attorney or district attorney handling the case shall inform him that a plea of guilty or ~~nolo contendere no contest~~ or a forfeiture of ~~bail deposit~~ under ch. 345 will result in such revocation and shall require him to sign a statement to the effect that he has been so informed. One copy of such statement shall be given to the defendant, except where the statement and deposit are mailed under s. 345.25, and one copy shall be filed with the court. If the conviction will result in such person's operator's record being charged with demerit points as established by rule under s. 343.32 (2), such officer or attorney shall inform him that a plea of guilty or ~~nolo contendere no contest~~ or a forfeiture of ~~bail deposit~~ under ch. 345 will result in his operator's record being charged with demerit points as prescribed by

such rules and shall inform him of the number of points which is cause for revocation of an operating privilege.

(2) Before taking the plea of a person charged with a violation of law which requires upon conviction that such person's operating privilege be revoked or that his operator's record be charged with demerit points as established by rule under s. 343.32 (2), the presiding judge or justice shall inform the defendant that conviction will result in his operating privilege being revoked or his record being charged with such points, including a statement as to the number of points which is cause for revocation. No bail deposit shall be forfeited on a charge concerning which a statement must be filed with the court under sub. (1), unless such statement has been so filed, but this shall not be construed to prevent revocation authorized by law on the basis of forfeiture of bail deposit or plea of guilty or nolo contendere no contest in a court in another jurisdiction even though the person in question was not given notice ~~in the manner as provided in this section~~. Whenever a person has been convicted in this state on the basis of a forfeiture of bail deposit or a plea of guilty or nolo contendere no contest and such person was not informed as required by this section, he may, within 60 days after being notified of the revocation of his operating privilege, petition the court for reopening the judgment and for an opportunity to defend on the merits and the court shall so order. Such an order automatically reinstates the revoked operating privilege.

(3) Whenever a person is charged with a violation of law which requires upon conviction that his operating privilege be revoked or that his operator's record be charged with demerit points as established by rule under s. 343.32 (2), ~~and such person is about to stipulate his guilt as authorized by s. 345.14, the officer official~~ authorized to receive the penalty stipulation of no contest shall inform the offender before accepting the stipulation ~~of guilt~~ that ~~the stipulation~~ it will result in his operating privilege being revoked or his record being charged with such points, including a statement as to the number of points which is cause for revocation, and shall require him to sign a statement to the effect that he has been so informed. Such statement shall be a part of or attached to the stipulation of guilt no contest.

SECTION 29. 343.28 (1) and (2) of the statutes are amended to read:

343.28 (1) Whenever a person is convicted of a moving traffic violation under chs. 341 to 349 or under a local ordinance ~~which is in conformity therewith~~ enacted under ch. 349, the clerk of the court in which the conviction occurred, or the justice, judge or magistrate of a court not having a clerk, shall, ~~within 48 hours after the conviction as provided in s. 345.48,~~ forward to the division the record of such conviction. The record of conviction forwarded to the division shall state whether the offender was involved in an accident at the time of the offense and whether he was operating as a private person or as a chauffeur at the time of the offense.

(2) Whenever a person is convicted of any offense for which s. 343.31 makes mandatory the revocation by the administrator of such person's operating privilege, the court in which the conviction occurred shall require the surrender to it of any license then held by such person. ~~Within 48 hours after the conviction, the~~ The clerk of the court, or the justice, judge or magistrate if the court has no clerk, shall as provided in s. 345.48, forward to the division the record of conviction and any surrendered licenses. The record of conviction forwarded to the division shall state whether the offender was involved in an accident at the time of the offense and whether he was operating as a private person or as a chauffeur at the time of the offense.

SECTION 30. 343.29 of the statutes is repealed.

SECTION 31. 343.30 (1), (1q) and (4) of the statutes are amended to read:

343.30 (1) A court may suspend or revoke a person's operating privilege for any period not exceeding one year upon such person's conviction in such court of violating any of the state traffic laws or any local ordinance ~~which is in conformity therewith~~ enacted under ch. 349. In exercising the authority to suspend or revoke an operating privilege, the court may suspend such privilege only when the operator has not had his operating privilege suspended or revoked previously, except under s. 344.14 (1), or when his present demerit point accumulation is not more than 25% above the demerit point accumulation set for suspension or revocation. In all other cases under this section, the court shall revoke the operating privilege of such operator.

(1q) A court shall revoke the operating privilege of a person for a period of not less than 90 days nor more than 6 months upon such person's first conviction for violating s. 346.63 (1) (a) or a local ordinance which is in conformity therewith except that the court shall revoke the operating privilege of a person who refuses to take a test under s. 343.305 for a period of not less than one year upon such person's first conviction for violating s. 346.63 (1) (a) or a local ordinance which is in conformity therewith.

(4) Whenever a court or judge suspends or revokes an operating privilege, the court or judge shall immediately take possession of any suspended or revoked license and shall forward it as provided in s. 345.48 to the division together with the record of conviction and notice of suspension or revocation. Whenever a court or judge restricts the operating privilege of a person such restriction shall be ~~indorsed~~ endorsed upon the operator's license and notice of such restriction forwarded to the division ~~of motor vehicles~~.

SECTION 31f. 343.305 (1) of the statutes is amended to read:

343.305 (1) Any person who drives or operates a motor vehicle upon the public highways of this state, or in those areas enumerated in s. 346.61, shall be deemed to have given consent to a chemical test of his breath, blood or urine, for the purpose of determining the alcoholic content of his blood if arrested and issued a citation for driving or operating a motor vehicle while under the influence of an intoxicant in violation of s. 346.63 (1) (a) or a local ordinance which is in conformity therewith. The test shall be administered upon the request of a traffic officer. The law enforcement agency by which the officer is employed shall be prepared to administer 2 of the aforesaid 3 tests and may designate which of the aforesaid tests shall be administered. The blood test shall not be the first test administered by the agency. A person who is unconscious or otherwise incapacitated is presumed not to have withdrawn his consent under this subsection.

SECTION 31m. 343.305 (2) (a) 3 of the statutes is repealed.

SECTION 31q. 343.305 (7) (c) and (d) of the statutes are amended to read:

343.305 (7) (c) If the reported person requests a hearing within the 60 days, the court shall set a time and place for the hearing, with notice to the person. Requests for hearing as herein provided shall go to the head of the docket wherein filed. The hearing shall be transcribed and shall be limited to the issues stated in sub. (2) (b). Nothing in this subsection shall prohibit

the person from introducing evidence on his own behalf to establish the reasonableness of his refusal to submit to a chemical test provided under s. 343.305 (1). At the close of the hearing or within 10 days thereafter, the court shall determine whether or not the conditions of sub. (2) (b) have been complied with. If the conditions of sub. (2) (b) have been complied with, the court shall direct the administrator to suspend the operating privilege of such person for a period of 60 days. If the conditions of sub. (2) (b) have not been complied with, the court shall order that the report be dismissed and that no action be taken on the driving privilege. Nothing in this subsection shall preclude the prosecution for violation of s. 346.63 (1) (a) or a local ordinance which is in conformity therewith.

(d) If upon the trial of the charge of driving a motor vehicle while under the influence of an intoxicant in violation of s. 346.63 (1) (a) or a local ordinance which is in conformity therewith the charge is dismissed or the person is found not guilty, the court shall order the administrator to immediately reinstate the operating privilege if suspended under this subsection. The courts shall advance requests for trials under s. 346.63 (1) (a) or a local ordinance which is in conformity therewith to the head of the docket.

SECTION 32. 343.32 (1) (a) and (2) of the statutes are amended to read:

343.32 (1) (a) A record of conviction has been received showing that such person has been convicted under a state law or under a local ordinance ~~which is in conformity therewith~~ enacted under ch. 349 of a traffic violation which is a cause of an accident resulting in the death of another.

(2) The administrator may suspend or revoke a person's operating privilege if such person appears by the records of the division to be an habitually reckless or negligent operator of a motor vehicle or to have repeatedly violated any of the state traffic laws or any local ordinance ~~which is in conformity therewith~~ enacted under ch. 349. For the purpose of determining when to suspend or revoke an operating privilege under this subsection, the administrator may determine and adopt by rule a method of weighing traffic convictions by their seriousness and may change such weighted scale as experience or the accident frequency in the state makes necessary or desirable. When an operator accumulates more than 6 demerit points required for suspension or revocation of an operating privilege or has been involved in 2 or more accidents in a one-year period where the accident report indicates that such person may have been causally negligent, the administrator may require such operator to present himself at an examining station for driver improvement counseling, consisting of either group or individual counseling, reexamination or both. If federal funds are available, the administrator may require any person who has had his operating privilege suspended or revoked, whether such suspension or revocation is the result of action under s. 343.30 or 343.32, or conviction for an offense which requires mandatory revocation under s. 343.31 to participate in such counseling, reexamination or both. Such reexamination may consist of all or part of the tests specified in s. 343.16 (1) (a) 1, or any other special examination as required under s. 343.16 (2). Upon conclusion of such counseling, interview and examination, the administrator shall take action as authorized at conclusion of other examinations under s. 343.16 (3) (a). In exercising the authority to suspend or revoke an operating privilege, the administrator may suspend such privilege only when the operator has not had his operating privilege suspended or revoked previously, except under s. 344.14 (1), or when his present demerit point accumulation is not more than 25% above the demerit point accumulation set for suspension or revocation. In all other cases under this

section, the administrator shall revoke the operating privilege of such operator. In regard to convictions which are not by themselves grounds for mandatory revocation of a license, such rule shall provide that demerit points accumulated when a person is not operating a vehicle as a chauffeur shall not be counted against his chauffeur's license but such rule may provide that demerit points accumulated by a person when operating a vehicle as a chauffeur shall be counted against his regular license. When a person who has had his regular license revoked continues to operate as a private operator and who also has a chauffeur's license and is convicted of any traffic violation, 12 demerit points shall be assigned against his chauffeur's license.

SECTION 33. 343.325 (1) (intro.) of the statutes is amended to read:

343.325 (1) (intro.) Whenever a person takes perfects an appeal from a conviction ~~which constitutes cause for revocation of such person's operating privilege under s. 343.31 or 343.32~~, the clerk of the court in which such conviction occurred, or the justice, judge or magistrate of a court not having a clerk, shall:

SECTION 34. 343.35 (2) of the statutes is amended to read:

343.35 (2) Any person who fails to surrender a license as required by this section may be fined required to forfeit not more than \$100 ~~or imprisoned not more than 6 months or both~~.

SECTION 35. 343.45 (3) of the statutes is amended to read:

343.45 (3) Any person violating ~~any provision of~~ this section may be fined required to forfeit not more than \$100 ~~or imprisoned not more than 6 months or both~~.

SECTION 36. 343.46 (4) of the statutes is amended to read:

343.46 (4) Any person violating ~~any provision of~~ this section may be fined required to forfeit not more than \$100 ~~or imprisoned not more than 6 months or both~~.

SECTION 37. 343.73 of the statutes is amended to read:

343.73 Any person who violates ~~any provision of~~ ss. 343.60 to 343.72 may be fined required to forfeit not less than \$25 nor more than \$100 ~~or imprisoned not more than 30 days~~ for each offense.

SECTION 38. 344.45 (2) of the statutes is amended to read:

344.45 (2) Any person who intentionally fails or refuses to return a license, registration plate or certificate of registration as required by this section may be fined required to forfeit not more than \$100 ~~or imprisoned not more than 6 months or both~~.

SECTION 39. 344.46 (2) of the statutes is amended to read:

344.46 (2) Any person violating this section may be fined required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both~~.

SECTION 40. 344.47 (2) of the statutes is amended to read:

344.47 (2) Any person violating this section may be fined required to forfeit not less than \$50 nor more than \$200 ~~or imprisoned not more than 6 months or both~~.

SECTION 41. 344.51 (3) of the statutes is amended to read:

344.51 (3) Any person violating this section may be ~~required to forfeit~~ fined not more than \$200 ~~or imprisoned not more than 6 months or both.~~

SECTION 41m. 345.115 of the statutes is repealed.

SECTION 42. 345.12 of the statutes is renumbered 345.55 and 345.55 (2), as renumbered, is amended to read:

345.55 (2) Any person violating this section may be fined ~~required to forfeit~~ not less than \$25 nor more than \$200 for the first offense and, for the second and each subsequent conviction within one year thereafter, may be fined ~~required to forfeit~~ not less than \$50 nor more than \$500 ~~or imprisoned not more than one year in county jail or both.~~

SECTION 43. 345.13 of the statutes is renumbered 194.175 and 194.175 (1), as renumbered, is amended to read:

194.175 (1) Whenever a person is arrested for a violation of ~~chs. ch. 194 and 341 to 348~~ and ss. 440.81 to 440.95, or ~~or is arrested for violating any ordinance enacted pursuant to s. 349.06,~~ the sheriff, chief of police or clerk of the court having jurisdiction of the violation is authorized to receive at his office, from the accused, a deposit in money not to exceed the amount of the maximum penalty which may be imposed if the accused is found guilty. Thereupon, the accused may be released from arrest until the court having jurisdiction of the violation opens on the next succeeding day in which such court is in session or until such time as is fixed for the hearing of the case.

SECTION 44. 345.135, 345.14 and 345.15 of the statutes are repealed.

SECTION 45. 345.16 of the statutes is renumbered 345.60.

SECTION 46. 345.20 to 345.53 of the statutes are created to read:

345.20 GENERAL PROVISIONS IN TRAFFIC FORFEITURE ACTIONS. (1) DEFINITIONS. In ss. 345.20 to 345.53:

(a) "Traffic regulation" means a provision of chs. 341 to 349 for which the penalty for violation is a forfeiture, or an ordinance enacted in accordance with s. 349.06.

(b) "Judge" has the meaning specified in s. 967.02 (6).

(2) PROCEDURE. The apprehension of alleged violators of traffic regulations and the trial of forfeiture actions for the violation of traffic regulations shall be governed by ss. 345.21 to 345.53. Where no specific procedure is provided in ss. 345.21 to 345.53, ch. 299 shall apply.

345.21 AUTHORITY TO ARREST WITH A WARRANT. A person may be arrested for the violation of a traffic regulation with a warrant that substantially complies with ch. 968. The person arrested shall be brought without unreasonable delay before a court having jurisdiction to try the action or a judge.

345.22 AUTHORITY TO ARREST WITHOUT A WARRANT. A person may be arrested without a warrant for the violation of a traffic regulation if the traffic officer has reasonable grounds to believe that the person is violating or has violated a traffic regulation.

345.23 OFFICER'S ACTION AFTER ARREST WITHOUT A WARRANT. If a person is arrested without a warrant for the violation of a traffic regulation, the arresting officer shall issue a citation under s. 345.25, and in addition:

- (1) May release him; or
- (2) Shall release him when he:
 - (a) Makes a deposit under s. 345.26; or
 - (b) Makes a stipulation of no contest and deposit under s. 345.27; or

(c) Deposits his valid Wisconsin operator's license as defined in s. 343.01 (2) (b) with the officer. The license deposited shall be the license under which he was operating at the time of arrest. If the license is deposited with the officer, the officer shall issue to the licensee a receipt which shall be valid as a driver's license through the date specified on the receipt, which shall be the same as the court appearance date, and the officer shall, at the earliest possible time prior to the court appearance date, deposit the license with the court.

(3) May, if the alleged violator does not have a valid Wisconsin operator's license appropriate to the type of operation in which he was engaged at the time of arrest and does not choose to act under sub. (2) (a) or (b) or if he has such license and does not choose to act under sub. (2) (a), (b) or (c), bring him without unreasonable delay before a judge or, for ordinance violations, before a municipal justice in the county in which the violation was alleged to have been committed.

345.24 OFFICER'S ACTION AFTER ARREST FOR DRIVING UNDER INFLUENCE OF INTOXICANT. A person arrested under s. 346.63 or an ordinance lawfully enacted in conformity therewith for operating a motor vehicle while under the influence of an intoxicant may not be released until 4 hours have elapsed from the time of his arrest or unless a chemical test administered under s. 343.305 shows that there is .05% or less by weight of alcohol in such person's blood, but such person may be released to his attorney, spouse, relative or other responsible adult at any time after arrest.

345.25 TRAFFIC CITATION. (1) Traffic citations issued under ss. 345.20 to 345.53 shall conform to s. 345.11.

(2) In addition to the requirements under sub. (1), citations may inform the alleged violator that in lieu of a court appearance he may, within a specified time, make a deposit under s. 345.26 or stipulate no contest under s. 345.27. If the citation provides for mailing the deposit, it shall state the amount of the deposit, shall contain the information required under s. 343.27 and shall provide that the alleged violator shall sign a statement before mailing to the effect that he has read such information and mail the statement with the deposit. If the citation does not contain the information specified in this subsection, such information shall be given to the alleged violator in a separate printed statement attached to the violator's copy of the citation.

(3) The receipt required by s. 345.23 (2) (c) may be part of the citation or may be given to the alleged violator on a separate form.

345.26 DEPOSIT. (1) (a) A person arrested under s. 345.22 for the violation of a traffic regulation who is allowed to make a deposit under s. 345.23 (2) (a) shall deposit the money as the arresting officer directs by either mailing the deposit at a nearby

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mailbox to the office of the sheriff, headquarters of the county traffic patrol, district headquarters or station of the state traffic patrol, city, village or town police headquarters or a precinct station, the office of the municipal justice or, if previously approved by the court, the office of the clerk of court, or by going, in the custody of the arresting officer, to any of those places to make the deposit. Before allowing the arrested person to make the deposit the arresting officer or the person receiving the deposit shall comply with s. 343.27 or, if the deposit is mailed, the signed statement required under s. 343.27 shall be mailed with it.

(b) The arresting officer or the person receiving the deposit shall notify the arrested person, orally or in writing, that:

1. If he fails to appear in court at the time fixed in the citation, he will be deemed to have tendered a plea of no contest and submitted to a forfeiture plus costs not to exceed the amount of the deposit which the court may accept as provided in s. 345.37; or

2. If he fails to appear in court at the time fixed in the citation and if the court does not accept the deposit as a forfeiture for the violation, he will be summoned into court to answer the complaint.

(2) (a) The basic amount of the deposit for the alleged violation of a traffic regulation shall be determined in accordance with a deposit schedule which the board of county judges shall establish. Annually, the board shall review and may revise the schedule.

(b) In addition to the amount in par. (a), the deposit shall include court costs and suit tax if applicable.

(3) (a) The arresting officer or the person accepting the deposit may allow the alleged violator to submit a personal check for the amount of the deposit.

(b) The person receiving the deposit shall prepare a receipt in triplicate on a serially numbered form, showing the purpose for which the deposit is made and stating that the alleged violator may inquire at the office of the clerk of court or justice regarding the disposition of the deposit, and shall deliver the original to the alleged violator or, if the deposit is made by mail, shall mail the receipt by return mail. The receipt referred to in this subsection may be included as part of the uniform citation under s. 345.25.

(4) If the alleged violator is in custody, he shall be released after he has made the deposit specified in this section.

(5) Any person, other than the clerk of court or the municipal justice before whom the defendant is directed to appear, who accepts the deposit shall, before the time fixed for the appearance of the defendant, deliver the deposit and a copy of the receipt and of the citation issued to the defendant to the clerk of the court or the municipal justice. The clerk or municipal justice shall give a receipt therefor, specifying the serial number of the receipt accompanying the deposit.

345.27 STIPULATION OF NO CONTEST. (1) If a person is issued a citation for a violation of a traffic regulation, he may make a stipulation of no contest and deposit in accordance with the schedule established under s. 345.26 (2) (a) at the office of the clerk of court, sheriff, or city, village or town police department in the county in which the citation was issued as designated by the arresting officer or he may mail the stipulation and deposit to the place designated by the arresting officer. The stipulation shall be made

within 5 days of the date of the alleged violation. The person who has mailed or filed a stipulation under this subsection may, however, appear in court on the court appearance date. If a person appears in court after making a stipulation, s. 345.37 (3) applies. Stipulations are not permitted for violations of ss. 346.62 (1) and 346.63 (1) or ordinances lawfully enacted in conformity therewith.

(2) If a person is cited for a violation for which a stipulation is authorized and makes a timely stipulation and pays the required deposit, the person need not appear in court and no witness fees, suit tax or other court fees shall be taxed. Before allowing the arrested person to make a stipulation and deposit, the arresting officer or the person receiving the stipulation and deposit shall comply with s. 343.27 or, if the stipulation and deposit are mailed, the signed statement required under s. 343.27 shall be mailed with it. The official receiving the stipulation and deposit shall also comply with s. 345.37 (5). The clerk of a court having jurisdiction may receive stipulations according to this subsection and on the court appearance date shall record a judgment of conviction and enter deposits as fines or forfeitures and shall comply with s. 343.28. The judge or the court may relieve any person from a stipulation or any other order, judgment or conviction entered or made as provided in s. 345.37 (3).

345.28 NONMOVING VIOLATIONS. (1) A person charged with a nonmoving traffic violation may mail the amount of the forfeiture to any of the places specified in s. 345.26 (1) or to a violations bureau, or to the city, town or county clerk or treasurer if the traffic citation so provides. In that case, the citation shall not be filed in court. A nonmoving traffic violation is any parking of a vehicle in violation of a statute or an ordinance.

(2) If the alleged violator does not mail the amount of the forfeiture as provided in sub. (1), a summons or warrant under ch. 968 may be issued for him. Upon his appearance, the procedure under ss. 345.32 to 345.36 shall apply.

345.30 JURISDICTION. Jurisdiction over actions for violation of traffic regulations is conferred upon any court of record which has criminal jurisdiction, but circuit courts shall not have original jurisdiction over traffic regulations. Municipal courts shall have jurisdiction over traffic regulations enacted in accordance with s. 349.06.

345.31 VENUE IN TRAFFIC REGULATION ACTIONS. Section 971.19 on place of trial in criminal actions applies to actions for the violation of traffic regulations except that, in the case of a violation of an ordinance of a municipality which is located in more than one county, the action may be brought in any court sitting in that municipality even though in another county. As an alternative, the plaintiff may bring the action in the county where the defendant resides.

345.315 CHANGE OF JUDGE. (1) In traffic regulation cases a person charged with a violation may file a written request for a substitution of a new judge or justice for the judge or justice assigned to the trial of that case. The written request shall be filed not later than 7 days after the return date of the citation. Upon filing the written request, the alleged violator shall forthwith serve a copy thereof on each party to the action.

(2) Not more than one judge or justice can be disqualified in any action. All defendants must join in any request to substitute a judge or justice.

(3) In a court of record in counties have 3 or more county judges the clerk shall reassign any case transferred by virtue of

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the substitution of a judge as provided herein. The county board of judges shall make rules for such assignment. All other cases shall be assigned as provided in s. 251.182.

(4) In municipal court, upon receipt of the written request accompanied by a fee of \$4, the justice shall call in another justice of the county where the offense occurred or transfer the case to the county court of the county where the offense occurred. A justice so called in shall receive compensation as the governing body determines, to be paid by the municipality. If the case is transferred to county court, the justice shall transmit to the clerk of the county court all the papers in the action and \$3 as payment of the clerk's fee and suit tax. The action shall proceed as if it had been commenced in the county court.

345.32 INITIAL APPEARANCE BEFORE JUDGE. If a defendant is arrested and brought without unreasonable delay before a judge who, or a court which, does not have jurisdiction to try the case, he shall be committed to await trial in a court with jurisdiction and all papers shall be sent forthwith to that court. In lieu of commitment, the judge may release the defendant if he posts bond for his appearance in such court, or the judge may release him on his own recognizance for such appearance, or the judge may release him without bail. The court to which the case is sent may similarly release the defendant.

345.34 ARRAIGNMENT; PLEAS. (1) If the defendant appears in response to a citation, or is arrested and brought before a court with jurisdiction to try the case, he shall be informed that he is entitled to a jury trial and then asked whether he wishes presently to plead, or whether he wishes a continuance. If he wishes to plead, he may plead guilty, not guilty or no contest.

(2) If he pleads guilty or no contest, the court shall accept the plea, find him guilty and proceed under s. 345.47.

(3) If a summons or citation is issued by a police officer for a violation of any municipal ordinance or of chs. 194 or 340 to 348 to a defendant who, if a natural person, resides or, if a corporation, has its principal place of business outside the county in which the judge or justice is located, the defendant may enter a plea of not guilty based on such summons or citation by registered letter to the judge or justice at the address indicated on the summons or citation, the letter to show the defendant's return address. Such letter may include a request for trial during normal daytime business hours. Upon receipt of the letter, the judge or justice shall reply by certified mail to the defendant's address setting forth a time and place for trial, such time to be during normal business hours if requested by the defendant. The reply shall include the warrant and complaint and the date of the trial shall be at least 10 days from the mailing by the judge or justice. Nothing in this subsection forbids the setting of the trial at any time convenient to all parties concerned.

345.35 NOT GUILTY PLEA; IMMEDIATE TRIAL. (1) If the defendant pleads not guilty, the court shall ascertain whether he wishes an immediate trial or whether he wishes a continuance. The plaintiff shall also be entitled to a continuance if the defendant pleads not guilty.

(2) If the defendant pleads not guilty and states that he waives the right to jury trial and that he wishes an immediate trial, the case may be tried forthwith if the plaintiff consents.

345.36 NOT GUILTY PLEA; CONTINUANCE. If the defendant pleads not guilty and requests a continuance the court shall set a date for trial or advise the defendant that he will later be noti-

fied of the date set for trial. The defendant shall be released if he posts a bond for his appearance, or the court may release him on his own recognizance, or the court may release him without bail; if he is not so released he shall be committed to jail to await trial. If a defendant fails to appear at the date set under this section, the court shall issue a warrant under ch. 968 and, if the alleged violator has posted bond for his appearance at that date, the court may order the bond forfeited.

345.37 PROCEDURE ON DEFAULT OF APPEARANCE. If the defendant fails to appear in court at the time fixed in the citation or by subsequent postponement, the following procedure shall apply:

(1) If he has not made a deposit under s. 345.26 or a stipulation of no contest under s. 345.27, the court shall issue a warrant under ch. 968.

(2) If he has made a deposit under s. 345.26, the citation may serve as the initial pleading and he shall be deemed to have tendered a plea of no contest and submitted to a forfeiture plus costs and the applicable suit tax, not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly, or reject the plea and issue a summons under ch. 968. If the defendant fails to appear in response to the summons, the court shall issue a warrant under ch. 968. If the court accepts the plea of no contest, the defendant may move within 10 days after the date set for his appearance to withdraw the plea of no contest, open the judgment and enter a plea of not guilty if he shows to the satisfaction of the court that his failure to appear was due to mistake, inadvertence, surprise or excusable neglect. If on reopening, the defendant is found not guilty the court shall immediately notify the division to delete the record of conviction based on the original proceeding and shall order the defendant's deposit returned to him.

(3) If the defendant has stipulated no contest under s. 345.27, the court, judge or justice having trial jurisdiction of such violation may, on motion with or without notice, for cause shown by affidavit and upon just terms, within 10 days after such stipulation has been entered into, relieve any party from such stipulation and the effects thereof. If a party is relieved from the plea of no contest, the court, judge or justice may order the stipulation or a written complaint to be filed and set the matter for trial. After trial the costs and fees shall be taxed as provided by law.

(4) If a violator's deposit is forfeited for, or if an alleged violator stipulates to entry of, a plea of no contest to any violation for which his operator's record will be charged with demerit points as established by rule under s. 343.32 (2), the official accepting the forfeiture shall comply with s. 343.27 (3).

(5) Within 48 hours after forfeiture of deposit or stipulation to entry of a plea of no contest, the official receiving the forfeiture shall forward to the division a certified copy of the stipulation of no contest or a judgment of forfeiture.

(6) Any person who fails to comply with this section relative to forwarding records of convictions to the division may be fined not more than \$100.

(7) If a defendant who has not made a cash deposit or stipulation of no contest and who has deposited his valid Wisconsin's chauffeur's or operator's license under s. 345.23 (2) (c) fails to appear in court at the time fixed in the citation or by subsequent postponement, the court shall order his license suspended for a period of 30 days or until the case is disposed of, whichever is

longer. Within 48 hours after the order of suspension, notice of the suspension shall be forwarded to the division but the court shall retain possession of the suspended license. The court may enter an order vacating the suspension if the defendant so moves within 10 days after the date set for his appearance and proves to the satisfaction of the court that his failure to appear was due to mistake, inadvertence, surprise or excusable neglect. If no order has been entered vacating the suspension the court shall forthwith forward the license to the administrator. If the court enters an order vacating the suspension or if the disposition of the case requires termination of the suspension the court shall immediately notify the administrator. Suspension under this subsection shall not affect the power of the court to suspend or revoke under s. 343.30 or the power of the administrator to suspend or revoke under s. 343.32.

345.38 EFFECT OF PLEA OF NO CONTEST. Forfeiture of deposit under s. 345.37 (2), an accepted plea of no contest, or a stipulation of no contest under s. 345.27, to a charge of violation of a traffic regulation shall not be admissible in evidence as an admission against interest in any action or proceeding arising out of the same occurrence as the charge of violation of a traffic regulation.

345.40 PLEADING. A citation which complies with s. 345.11 or a complaint which complies with the appropriate provisions of ch. 968 may be used as the initial pleading, or the justice, clerk or one of his deputies may enter upon the records of the court a statement of the offense charged, which shall stand as a complaint, unless the court directs that formal complaint be made. Several counts may be joined in one complaint or a separate complaint may be prepared for each separate violation. The defendant's plea shall be guilty, no contest or not guilty and shall be entered as not guilty upon failure to plead. A plea of not guilty shall put all matters in such case at issue.

345.41 MOTION TO DISMISS. Defenses which could be taken by pleas in abatement, in bar, demurrers and motions to quash shall be raised by motion to dismiss, which motion shall be made before any trial on the merits, or be waived.

345.42 NO PRELIMINARY EXAMINATION. There shall be no preliminary examination.

345.421 DISCOVERY. Neither party is entitled to pretrial discovery except that if the defendant moves within 10 days after the alleged violation and shows cause therefor, the court may order that he be allowed to inspect and test under s. 269.57 (1) and under such conditions as the court prescribes, any devices used by the plaintiff to determine whether a violation has been committed, including without limitation, devices used to determine presence of alcohol in breath or body fluid or to measure speed, and may inspect under s. 269.57 (1) the reports of experts relating to those devices.

345.422 NO GUARDIAN AD LITEM. No guardian ad litem need be appointed for any defendant.

345.425 MODE OF TRIAL. (1) The defendant shall be informed of his right to a jury trial in county court on payment of fees required by s. 345.43 (1). If the defendant requests a jury trial in municipal court and pays the fees required by s. 345.43, the justice shall promptly transmit all papers and fees in the cause to the clerk of the county court of the county where the violation occurred.

(2) If both parties, in a court of record, request a trial by the court or if neither demands a trial by jury, the right to a trial by jury is waived.

345.43 JURY TRIAL. (1) (a) If a case has been transferred under s. 345.425, or if in county court either party files a written demand for a jury trial within 20 days after the date of the issuance of the citation and immediately pays the fees specified in par. (b), the court shall place the case on the jury calendar of the county court or shall forthwith transfer the case to circuit court for trial. The demand shall specify whether trial is to be by a jury of 6 or 12. If no party demands a trial by a jury of 12, the right to trial by a jury of 12 is waived forever.

(b) The fee for a 12-man jury is \$24, plus the applicable suit tax and clerk's fee. The fee for a 6-man jury is \$12.

(2) If there is a demand for a trial by a jury of 12, the procedure applicable to jury trials in civil actions shall apply.

(3) (a) If a 6-man jury is demanded, in counties having a population of 500,000 or more, the jury shall be drawn from the circuit court jury panel and selected as set forth under Title XXV. In all other counties, such juries shall be selected as provided in pars. (b) and (c), except that any party may demand trial by a county-wide jury and that the clerk shall select, by lot, the names of sufficient persons qualified to serve as jurors as will provide to each party entitled to peremptory challenges the number of challenges specified in par. (b).

(b) If a timely 6-man jury demand is made, the judge shall direct the clerk of the court to select by lot from the current jury panel the names of 18 residents of the county qualified to serve as jurors in courts of record, from which lists either party may strike 5 names. If either party neglects to strike out names, the clerk shall strike out names for him. Except in counties having a population of 500,000 or more, no voir dire examination or challenge for cause shall be permitted. The clerk shall issue a venire to the sheriff or constable to summon any 6 persons whose names are not struck out, to appear at the time and place named in the venire.

(c) Jurors may all be residents of a municipality in which the court is held unless the defendant demands a county-wide jury. For this purpose a municipal jury list may be established, known as the "..... (name of municipality) jury list", which shall be constituted as follows: The jury commissioners appointed by the circuit court of the county in which the municipality is located shall, from time to time as required by the court, provide and furnish a list containing the names of 200 jurors selected by them from citizens residing within the municipality involved. The judge or judges of the court may by court order direct the jury commissioners to furnish a list of less than 200 jurors, but in no event shall such list contain less than 50 names. Except as herein provided, the provisions of s. 255.04, relating to the preparation of jury lists for the circuit court, so far as applicable, shall apply to and govern the preparation of such list, but the slips containing the names of jurors so selected shall be deposited in a box designated the "..... (name of municipality) jury list".

345.44 DEFENDANT CANNOT BE CALLED ADVERSELY. At the trial the defendant cannot be called as a witness by the plaintiff. The failure of the defendant to testify may be commented on by the plaintiff.

345.46 VERDICT. A verdict is valid if agreed to by five-sixths of the jury. If a verdict relates to more than one count, it shall be valid as to any count if any five-sixths of the jury agree

thereto. The form of the verdict shall be guilty or not guilty, except where it is necessary to determine speed. The amount of the forfeiture shall be determined by the court after the court makes its finding.

345.47 JUDGMENT OF FORFEITURE. (1) If the defendant is found guilty, the court may suspend or revoke his license under s. 343.30 and, in addition, may enter judgment against him for a monetary amount not to exceed the maximum forfeiture provided for the violation and for costs under s. 345.53. If the judgment is not paid, the court shall order:

(a) That the defendant be imprisoned for a time specified by the court until the judgment is paid, but not to exceed 90 days; or

(b) In lieu of imprisonment and in addition to any other suspension or revocation, that the defendant's operating privilege be suspended for a period of time not less than 30 days nor more than 6 months. If the person pays the forfeiture after suspension under this section, the suspension shall be reduced to the minimum period of 30 days. Suspension under this paragraph shall not affect the power of the court to suspend or revoke under s. 343.30 or the power of the administrator to suspend or revoke under s. 343.32.

(c) If a court or judge suspends an operating privilege under this section, the court or judge shall immediately take possession of the suspended license and shall forward it to the department together with the notice of suspension, which shall clearly state that the suspension was for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during a period of suspension the court or judge shall immediately notify the department. Upon receipt of such notice, the department shall return the license when the minimum period of suspension has passed.

(2) The payment of any judgment may be suspended or deferred for not more than 60 days in the discretion of the court. In cases where a deposit has been made, any forfeitures and costs shall be taken out of the deposit and the balance, if any, returned to the defendant.

(3) When a defendant is imprisoned for nonpayment of a forfeiture for an action brought by a municipality located in more than one county, any commitment to a county institution shall be to the county in which the action was tried.

(4) Section 343.345 takes precedence over this section to the extent the 2 sections conflict.

345.48 REPORTING PENDING APPEAL. (1) If the defendant is found guilty the court shall, within 48 hours, forward to the division the record of such conviction.

(2) If the defendant is found guilty of a traffic violation for which revocation of his operating privilege is mandatory under s. 343.31, or for which the court revokes or suspends his operating privilege under s. 343.30, the court shall immediately take possession of the suspended or revoked license. The revocation or suspension is effective immediately. The court ordered suspension or revocation shall be included as part of the report of conviction under sub. (1).

(3) If no notice of appeal is filed within 10 days, the court shall, within 48 hours after expiration of the 10-day period, forward to the division any surrendered license.

(4) If notice of appeal is filed the court shall, within 48 hours after it is filed, forward to the division a certificate stat-

ing that the appeal has been perfected and shall return any surrendered license. Thereafter, the court shall notify the division as required under s. 343.325 (1) (b) and (c).

345.49 PROCEDURE ON IMPRISONMENT; NONPAYMENT OF FORFEITURE. (1) Any person imprisoned under s. 345.47 for nonpayment of a forfeiture may, on his request, be allowed to work under s. 56.08; if he does work, his earnings shall be applied on the unpaid forfeiture after payment of his board and expenses and support of his dependents to the extent directed by the court.

(2) Any person who is subject to imprisonment under s. 345.47 for nonpayment of a forfeiture may be placed on probation to some person satisfactory to the court for not more than 90 days or until the forfeiture is paid if that is done before expiration of the 90-day period. The payment of the forfeiture during such period shall be a condition of such probation. If the forfeiture is not paid or the court deems that the interests of justice require, probation may be terminated and the defendant imprisoned as provided in sub. (1) or s. 345.47.

345.50 APPEAL. (1) JURISDICTION ON APPEAL. Appeals shall be to the circuit court for the county. On appeal from municipal court, the defendant is entitled to a trial de novo and to a jury trial, on request. On appeal from county court the circuit court has power similar to that of the supreme court under ch. 274 to review and to affirm, reverse, remand or modify the judgment appealed from.

(2) **STAY OF EXECUTION.** The amount of undertaking required to stay execution on appeal shall not exceed the amount of the maximum forfeiture plus court costs.

(3) **PROCEDURE ON APPEAL.** Within 10 days after judgment, appeal may be taken to the circuit court by filing a notice of appeal with the municipal justice or with the clerk of the trial court, and by serving a copy of such notice on the opposing party or his attorney. If the action was tried in county court the appellant shall, within 40 days after the notice of appeal was filed, file with the clerk of the trial court either a transcript of the reporter's notes of the trial or a statement that his appeal can be supported by the case file without a transcript. The appellant shall pay the cost of preparing the transcript, and shall deliver a copy of the transcript to all parties. Within 10 days after the transcript or statement is filed with the clerk, the clerk shall return the case file and the transcript or statement to the circuit court, and shall notify the parties of such filing in the circuit court.

345.51 REOPENING OF DEFAULT JUDGMENT. Except as provided in s. 345.37, there shall be no reopening of default judgments unless allowed by order of the trial court after notice and motion duly made and upon good cause shown. The notice of motion must be filed within 10 days after entry of judgment in the case docket. Default judgments for purposes of this section include pleas of guilty, no contest and forfeitures of deposit.

345.52 NO DOUBLE PROSECUTION. (1) A judgment on the merits in a traffic ordinance action bars any proceeding under a state statute for the same violation. A judgment on the merits in an action under a state statute bars any proceeding under a traffic ordinance enacted in conformity with the state statute for the same violation.

(2) The pendency of an action under a traffic ordinance is grounds for staying an action under a state statute for the same violation. The pendency of an action under a state statute is

grounds for staying an action under a traffic ordinance enacted in conformity with the state statute for the same violation.

345.53 COSTS NOT TAXED AGAINST PLAINTIFF. In traffic regulation actions in all courts, costs may not be taxed against the plaintiff.

SECTION 47. 346.17 (1) and (2) of the statutes are amended to read:

346.17 (1) Any person violating s. 346.04 (1) or (2), 346.06, 346.07 (1), 346.12 or 346.13 (1) or (3) may be ~~fin~~ required to forfeit not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating ~~any provision of ss. 346.05, 346.07 (2) or (3), 346.08 to 346.11, 346.13 (2) or 346.14 to 346.16~~ may be ~~fin~~ required to forfeit not less than \$20 nor more than \$200 ~~or imprisoned not more than 30 days or both.~~

SECTION 48. 346.22 of the statutes is amended to read:

346.22 PENALTY FOR VIOLATING SECTIONS 346.18 TO 346.21. (1) Any person violating s. 346.18 may be ~~fin~~ required to forfeit not less than \$20 nor more than \$50 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.19 or 346.20 (1) (a) may be ~~fin~~ required to forfeit not less than \$20 nor more than \$200 ~~or imprisoned not more than 30 days or both.~~

(3) Any person violating s. 346.20 (1) (b) or (c), (2), (3) or 346.21 may be ~~fin~~ required to forfeit not less than \$10 nor more than \$20 for the first offense and not less than \$25 nor more than \$50 for the 2nd or subsequent conviction within a year.

SECTION 49. 346.30 of the statutes is amended to read:

346.30 PENALTY FOR VIOLATING SECTIONS 346.23 TO 346.29. (1) Any pedestrian violating s. 346.23, 346.24 (2), 346.25, 346.28 or 346.29 may be ~~fin~~ required to forfeit not less than \$2 nor more than \$20 for the first offense and not less than \$10 nor more than \$50 for the 2nd or subsequent conviction within a year. Any operator of a vehicle violating s. 346.23 or 346.28 may be ~~fin~~ required to forfeit not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.24 (1) or (3) or 346.27 may be ~~fin~~ required to forfeit not less than \$20 nor more than \$200 ~~or imprisoned not more than 30 days or both.~~

(3) Any person violating ~~any provision of s. 346.26~~ may be ~~fin~~ required to forfeit not less than \$25 nor more than \$200 ~~or imprisoned not more than 6 months or both~~ for the first offense and may be ~~fin~~ required to forfeit not less than \$50 nor more than \$500 ~~or imprisoned not more than one year in county jail or both~~ for the second or subsequent conviction within a year.

SECTION 50. 346.36 of the statutes is amended to read:

346.36 PENALTY FOR VIOLATING SECTIONS 346.31 TO 346.35. Any person violating ss. 346.31 to 346.35 may be ~~fin~~ required to forfeit not less than \$20 nor more than \$40 for the

first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

SECTION 51. 346.43 of the statutes is amended to read:

346.43 PENALTY FOR VIOLATING SECTIONS 346.37 TO 346.42. (1) Any pedestrian violating s. 346.37 or 346.38 may be fin~~ed~~ required to forfeit not less than \$2 nor more than \$20 for the first offense and not less than \$10 nor more than \$50 for the 2nd or subsequent conviction within a year. Any operator of a vehicle violating ss. 346.37 to 346.39 may be fin~~ed~~ required to forfeit not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.42 may be fin~~ed~~ required to forfeit not less than \$20 nor more than \$200 or ~~imprisoned not more than 30 days or both.~~

(3) Any person violating ~~any provision of~~ s. 346.41 may be fin~~ed~~ required to forfeit not less than \$25 nor more than \$200 or imprisoned not more than 6 months or both for the first offense and may be fin~~ed~~ required to forfeit not less than \$50 nor more than \$500 or ~~imprisoned not more than one year in county jail or both~~ for the second or subsequent conviction within a year.

SECTION 52. 346.49 of the statutes is amended to read:

346.49 PENALTY FOR VIOLATING SECTIONS 346.44 TO 346.48. (1) Any person violating s. 346.46 or 346.47 may be fin~~ed~~ required to forfeit not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.44, 346.45 or 346.48 may be fin~~ed~~ required to forfeit not less than \$20 nor more than \$200 or ~~imprisoned not more than 30 days or both.~~

SECTION 53. 346.56 of the statutes is amended to read:

346.56 PENALTY FOR VIOLATING SECTIONS 346.51 TO 346.55. (1) Any person violating s. 346.52 to 346.54 or 346.55 (3) may be fin~~ed~~ required to forfeit not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.51 or 346.55 (1) or (2) may be fin~~ed~~ required to forfeit not less than \$20 nor more than \$200 or ~~imprisoned not more than 30 days or both.~~

SECTION 54. 346.60 of the statutes is amended to read:

346.60 PENALTY FOR VIOLATING SECTIONS 346.57 TO 346.595. (1) Any person violating s. 346.59 may be fin~~ed~~ required to forfeit not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.57 (4) (d) to (h) or (5) or 346.58 may be fin~~ed~~ required to forfeit not less than \$20 nor more than \$200 or ~~imprisoned not more than 30 days or both.~~

(3) Any person violating s. 346.57 (2), (3) or (4) (a) to (c) may be fin~~ed~~ required to forfeit not less than \$40 nor more than \$300 or ~~imprisoned not more than 6 months or both~~ for the first offense and may be fined not less than \$80 nor more than \$600 or

imprisoned not more than one year in county jail or both for the 2nd or subsequent conviction within a year.

(4) Any person violating s. 346.595 may be fined required to forfeit not less than \$20 nor more than \$200 ~~or imprisoned not more than 30 days or both.~~

SECTION 55. 346.65 (1) and (2) of the statutes are amended to read:

346.65 (1) Any person violating ~~any provision of~~ s. 346.62 (1) or 346.64 may be fined required to forfeit not less than \$25 nor more than \$200 ~~or imprisoned not more than 6 months or both~~ for the first offense and, for the ~~second~~ 2nd or subsequent violation of s. 346.62 (1) within 4 years and the ~~second~~ 2nd or subsequent violation of s. 346.64 within one year, may be fined not less than \$50 nor more than \$500 or imprisoned not more than one year in county jail or both.

(2) Any person violating s. 346.63 (1) may be ~~fin~~ed required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both~~ for the first offense and, upon the ~~second~~ 2nd or subsequent conviction within 5 years, shall be imprisoned not less than 5 days nor more than one year and in addition may be fined not more than ~~\$200~~ \$500.

SECTION 56. 346.65 (2m) of the statutes is repealed.

SECTION 57. 346.65 (3) of the statutes is amended to read:

346.65 (3) Any person violating ~~any provision of~~ s. 346.62 (2) or 346.63 (2) may be fined not more than \$200 or imprisoned in county jail for not less than 30 days nor more than one year or both.

SECTION 58. 346.74 (1) to (4) of the statutes are amended to read:

346.74 (1) Any person violating s. 346.72 may be fined required to forfeit not less than \$20 nor more than \$40 for the first offense and may be fined not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.70 (1), (2) or (3), 346.71 or 346.73 may be fined required to forfeit not less than \$40 nor more than \$200 for the first offense and may be fined not less than \$100 nor more than \$500 for the 2nd or subsequent conviction within a year.

(3) Any person violating ~~any provision of~~ s. 346.68 or 346.69 may be required to forfeit not more than \$200 for the first offense and, for a 2nd or subsequent conviction within a year, may be fined not more than \$200 or imprisoned not more than 6 months or both.

(4) Any person violating s. 346.70 (5) may be required to forfeit not less than \$25 nor more than \$50 for a first offense and, for a 2nd or subsequent conviction within a year, may be fined not less than \$25 nor more than \$50 or imprisoned not less than 30 nor more than 60 days or both.

SECTION 59. 346.82 of the statutes is amended to read:

346.82 PENALTY FOR VIOLATING SECTIONS 346.77 TO 346.81. (1) Any person violating ~~any provision of~~ ss. 346.77, 346.79 (1) to (3), 346.80 or 346.81 (2) may be fined required to forfeit not more than \$20.

(2) Any person violating ~~any provision of~~ s. 346.78 or 346.79 (4) may be fin~~ed~~ required to forfeit not less than \$10 nor more than \$20 for the first offense and not less than \$25 nor more than \$50 for the ~~second 2nd~~ or subsequent conviction within a year.

(3) Any person violating s. 346.81 (1) may be fin~~ed~~ required to forfeit not less than \$10 nor more than \$200 ~~or imprisoned not more than 30 days or both.~~

SECTION 60. 346.95 of the statutes is amended to read:

346.95 PENALTY FOR VIOLATING SECTIONS 346.87 TO 346.94. (1) Any person violating s. 346.87, 346.88, 346.89 (2), 346.90 to 346.92 or 346.94 (1), (3), (9), (10) or (11) may be fin~~ed~~ required to forfeit not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.89 (1), 346.93 or 346.94 (2), (4) or (7) may be fin~~ed~~ required to forfeit not less than \$20 nor more than \$400 ~~or imprisoned not more than 60 days or both.~~

(3) Any person violating s. 346.94 (5), (6) or (6m) shall be fin~~ed~~ required to forfeit \$50 for each offense.

(4) Any person violating s. 346.94 (8) may be fin~~ed~~ required to forfeit not to exceed \$20 for the first offense or not to exceed \$50 for each subsequent offense.

SECTION 61. 347.30 of the statutes is amended to read:

347.30 PENALTY FOR VIOLATING LIGHTING EQUIPMENT REQUIREMENTS. (1) Any person violating s. 347.06 or 347.13 (2), (3) or (4) may be fin~~ed~~ required to forfeit not less than \$10 nor more than \$20 for the first offense and not less than \$25 nor more than \$50 for the ~~second 2nd~~ or subsequent conviction within a year.

(2) Any person violating ~~any provision of~~ ss. 347.03, 347.07 to 347.12, 347.13 (1) or 347.14 to 347.29 may be fin~~ed~~ required to forfeit not less than \$10 nor more than \$200 ~~or imprisoned not more than 30 days or both.~~

SECTION 62. 347.50 of the statutes is amended to read:

347.50 PENALTY FOR VIOLATING SECTIONS 347.35 TO 347.49. Any person violating ~~any provision of~~ ss. 347.35 to 347.49 may be fin~~ed~~ required to forfeit not less than \$10 nor more than \$200 ~~or imprisoned not more than 30 days or both.~~

SECTION 63. 348.11 of the statutes is amended to read:

348.11 PENALTY FOR VIOLATING SIZE AND LOAD LIMITATIONS. (1) Any person violating ~~any provision of~~ s. 348.09 or 348.10 may be fin~~ed~~ required to forfeit not less than \$10 nor more than \$200 ~~or imprisoned not more than 30 days or both.~~

(2) Any person violating ~~any provision of~~ ss. 348.05 to 348.08 may be fin~~ed~~ required to forfeit not less than \$50 nor more than \$100 for the first offense and may be fin~~ed~~ required to forfeit not less than \$100 nor more than \$200 ~~or imprisoned not less than 10 nor more than 30 days, or both,~~ for the ~~second 2nd~~ and each subsequent conviction within one year.

SECTION 64. 348.21 (1), (2), (3) (a) and (b) and (4) of the statutes are amended to read:

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348.21 (1) Any person violating s. 348.185 may be ~~required to forfeit~~ fined not less than \$10 nor more than \$20 for the first offense and not less than \$25 nor more than \$50 for the ~~second~~ 2nd and each subsequent conviction within one year.

(2) (a) Any person who violates s. 348.17 (2) or 348.19 (3) may be ~~required to forfeit~~ fined not less than \$50 nor more than \$100 for the first offense and, for the ~~second~~ 2nd or each subsequent conviction within a 12-month period, may be ~~required to forfeit~~ fined not less than \$100 nor more than \$200 ~~or imprisoned not less than 10 nor more than 30 days or both.~~

(b) If the load on any wheel axle or group of axles does not exceed the weight prescribed in s. 348.15 (3) (a), (b) or (c) or 348.16 by more than 1,000 pounds and provided such excess can be reloaded within the normal load carrying areas, on any other wheel axle or axles, so that all whells and axles are then within the tolerated limits, the official shall direct the operator to reload. If such reloading is ~~accomplished~~ accomplished and all axles or group of axles are within the legal limits, a ~~fine forfeiture~~ of \$10 shall be imposed. This ~~fine forfeiture~~ shall be paid upon the basis of the citation issued by the official to the court named in the citation. Failure to pay shall subject the operator to the penalty in par. (a) or sub. (3) (a). Violations under this section shall not be considered as violations or prior convictions under par. (a), sub. (3) (a) or ~~(3) (b).~~

(3) (a) If the weight exceeds by 1,000 pounds or less the maximum set forth in s. 348.15 (3) or 348.16 or posted as provided in s. 348.17 (1), a ~~fine forfeiture~~ of not less than \$50 nor more than \$100 for the first offense and, for the ~~second~~ 2nd and each subsequent conviction within a 12-month period, a ~~fine forfeiture~~ of not less than \$100 nor more than \$200 ~~or imprisonment for not less than 10 nor more than 30 days or both.~~

(b) If the weight exceeds by more than 1,000 pounds the maximum set forth in s. 348.15 (3) or 348.16 or posted as provided in s. 348.17 (1), the ~~fine forfeiture~~ shall be computed according to the following schedule and, in the case of violation of s. 348.175, shall be computed on the basis of the weight stated in the permit, and in the case of violation of s. 348.15 (3) (b) 2 shall be computed on the basis of the weights stated in that paragraph:

1. For the first conviction, a ~~fine forfeiture~~ of not less than \$50 nor more than \$200 plus an amount equal to: 1 cent for each pound of total excess load when the total excess is not over 2,000 pounds; 2 cents for each pound of total excess load if the excess is over 2,000 pounds and not over 3,000 pounds; 3 cents for each pound of total excess load if the excess is over 3,000 pounds and not over 4,000 pounds; 5 cents for each pound of total excess load if the excess is over 4,000 pounds and not over 5,000 pounds; 7 cents for each pound of total excess load if the excess is over 5,000 pounds.

2. For the ~~second~~ 2nd and each subsequent conviction within a 12-month period, a ~~fine forfeiture~~ of not less than \$100 nor more than \$300 ~~or imprisonment for not less than 10 nor more than 30 days or both,~~ plus an amount equal to: 2 cents for each pound of total excess load when the total excess is not over 2,000 pounds; 4 cents for each pound of total excess load if the excess is over 2,000 pounds and not over 3,000 pounds; 6 cents for each pound of total excess load if the excess is over 3,000 and not over 4,000 pounds; 8 cents for each pound of total excess load if the excess is over 4,000 pounds and not over 5,000 pounds; 10 cents for each pound of total excess load if the excess is over 5,000 pounds.

(4) For the purpose of determining a repetitious violator, receipt of a certificate of conviction by the department is prima

facie evidence of conviction. In determining whether a ~~second~~ 2nd or subsequent conviction has occurred within a given 12-month period, either the original judgment of conviction in justice or trial court or the affirmance of the judgment by an appellate court, if such judgment has been affirmed, may be counted. This method of counting is authorized to effectively reach the repetitious violator and to prevent misuse of the right of appeal for the purpose of forestalling imposition of the penalties provided by this section. Forfeiture of ~~bail or appearance money deposit~~ or payment of a ~~fine~~ forfeiture is a conviction within the meaning of this section.

SECTION 65. 348.28 (2) of the statutes is amended to read:

348.28 (2) Any person violating this section may be ~~fined~~ required to forfeit not less than \$10 nor more than \$20 for the first offense and not less than \$25 nor more than \$50 for the ~~second~~ 2nd and each subsequent conviction within one year.

SECTION 66. 349.06 of the statutes is amended to read:

349.06 Except for the suspension or revocation of motor vehicle operator's licenses, ~~regulations imposing penalties for operating a motor vehicle upon a highway without a license or while a license is revoked, suspended, canceled or expired or regulations enacted in conformity with s. 346.63 (1) (a),~~ any local authority may enact and enforce any traffic regulation which is in strict conformity with one or more provisions of chs. 341 to 348 but the penalty for violation of any of its provisions shall be limited to a forfeiture for which the penalty for violation thereof is a forfeiture. ~~No citation for violating local traffic regulations in conformity with s. 346.63 (1) (a) shall be issued after May 1, 1970.~~

SECTION 67. This act shall take effect on the 1st day of the 6th month commencing after its publication.