

1987 Assembly Bill 336

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1987 Wisconsin Act **267**

AN ACT *to repeal* 345.37 (7); *to amend* 345.20 (2) (b) and 800.04 (3) (a); and *to repeal and recreate* 345.37 (1) of the statutes, *relating to* failure to appear in court at the time specified in a traffic citation.

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

SECTION 1. 345.20 (2) (b) of the statutes is amended to read:

345.20 (2) (b) The trial of forfeiture actions in municipal court for the violation of traffic regulations

shall be governed by ch. 800. Provisions relating to the uniform traffic citation and complaint in s. 345.11, to arrests in ss. 345.21 to 345.24, to deposits and stipulations of no contest under ss. 345.255 to 345.27, to the authority of the court under ss. 345.37, 345.47, 345.48 and 345.50 and to guaranteed arrest bonds

under s. 345.61 apply to violations of ordinances to be tried in municipal court.

SECTION 2. 345.37 (1) of the statutes is repealed and recreated to read:

345.37 (1) If the defendant has not made a deposit under s. 345.26 or a stipulation of no contest under s. 345.27, the court shall either:

(a) Issue a warrant under ch. 968 and, if the defendant has posted a bond for appearance at that date, the court may order the bond forfeited; or

(b) Deem the nonappearance a plea of no contest and enter judgment accordingly. If the defendant has posted bond for appearance at that date, the court may also order the bond forfeited. The court shall promptly mail a copy or notice of the judgment to the defendant. The judgment shall allow not less than 20 days from the date thereof for payment of any forfeiture, penalty assessment and costs imposed. If the defendant moves to open the judgment within 6 months after the court appearance date fixed in the citation, and shows to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise or excusable neglect, the court shall open the judgment, accept a not guilty plea and set a trial date.

The court may impose costs under s. 814.07. The court shall immediately notify the department to delete the record of conviction based upon the original judgment. If the offense involved is a nonmoving traffic violation and the defendant is subject to s. 345.28 (5) (c), a default judgment may be entered and opened as provided in s. 345.28 (5) (c).

SECTION 3. 345.37 (7) of the statutes is repealed.

SECTION 4. 800.04 (3) (a) of the statutes is amended to read:

800.04 (3) (a) If the court accepts a plea of no contest or judgment is entered against a defendant by default, the defendant may move within 6 months after the date set for the appearance to withdraw the plea of no contest, reopen the judgment and enter a plea of not guilty upon a showing to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. ~~If on reopening the defendant is found not guilty, the court shall in traffic cases under ss. 345.20 to 345.53 immediately notify the department of transportation to delete the record of conviction based on the original proceeding and shall order the defendant's deposit returned.~~