

1989 Assembly Bill 356

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1989 WISCONSIN ACT 72

AN ACT to amend 343.27, 343.325 (2) and (3), 343.325 (4), 343.33 (title) and (3), 343.38 (4) (title), 344.24, 344.29, 344.40 (title) and 344.45 (title) of the statutes, **relating to:** suspension and revocation of motor vehicle operating privileges.

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

SECTION 1. 343.27 of the statutes is amended to read:

343.27 (title) Accused to be instructed as to mandatory revocation or suspension and demerit point provisions. (1) (a) Whenever a person is charged with a violation of law which requires upon conviction that the operating privilege be suspended or revoked, the enforcement officer, city or village attorney or district attorney handling the case shall inform the person that a plea of guilty or no contest or a forfeiture of deposit under ch. 345 will result in suspension or revocation and shall require the person to sign a statement of having been so informed. One copy of the 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.

(b) If the conviction will result in the person's operator's record being charged with demerit points as established by rule under s. 343.32 (2), the officer or attorney shall inform the person that a plea of guilty or no contest or a forfeiture of deposit under ch. 345 will result in the operator's record being charged with demerit points as prescribed by the rules and shall inform the person of the number of points which is cause for suspension or revocation of an operating privilege.

(2) (a) Before taking the plea of a person charged with a violation of law which requires upon conviction that the person's operating privilege be suspended or revoked or that the person's operator's record be charged with

demerit points as established by rule under s. 343.32 (2), the presiding judge or municipal judge shall inform the defendant that conviction will result in the operating privilege being suspended or revoked or the record being charged with points, including a statement as to the number of points which is cause for suspension or revocation.

(b) No deposit shall be forfeited on a charge concerning which a statement must be filed with the court under sub. (1), unless the statement has been filed, but this shall not be construed to prevent suspension or revocation authorized by law on the basis of forfeiture of deposit or plea of guilty or no contest in a court in another jurisdiction even though the person in question was not given notice as provided in this section.

(c) Whenever a person has been convicted in this state on the basis of a forfeiture of deposit or a plea of guilty or no contest and the person was not informed as required by this section, the person may, within 60 days after being notified of the suspension or revocation of the operating privilege, petition the court for reopening the judgment and for an opportunity to defend on the merits and the court shall so order. The order automatically reinstates the suspended or revoked operating privilege.

(3) Whenever a person is charged with a violation of law which requires upon conviction that the operating privilege be suspended or revoked or that the operator's record be charged with demerit points as established by rule under s. 343.32 (2), the official authorized to receive the stipulation of no contest shall inform the offender before accepting the stipulation that it will result in the person's operating privilege being suspended or revoked

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or the person's record being charged with points, including a statement as to the number of points which is cause for suspension or revocation, and shall require the person to sign a statement of having been so informed. The statement shall be a part of or attached to the stipulation of no contest.

SECTION 2. 343.325 (2) and (3) of the statutes, as affected by 1989 Wisconsin Act 7, are amended to read:

343.325 (2) Notwithstanding ss. 343.31 and 343.32 and except as otherwise provided in sub. (4), the secretary shall not suspend or revoke a person's operating privilege on the basis of a conviction if the secretary receives from the court in which the conviction occurred a certificate stating that an appeal from the conviction has been taken. If the secretary receives such certificate after suspension or revocation of the operating privilege, the operating privilege shall be reinstated without requiring compliance with s. 343.38. If the secretary receives the certificate after suspension of the operating privilege, the operating privilege shall be reinstated automatically.

(3) Whenever suspension or revocation of an operating privilege has been withheld as provided in sub. (2) and the department receives notice that the conviction in question has been affirmed on appeal or that the appeal has been dropped, the secretary shall suspend or revoke such operating privilege on the same basis as if the appeal had not been taken, but the period of suspension or revocation shall run from the date of suspension or revocation following the affirmance of the conviction or dropping of the appeal, less any time the operating privilege had been suspended or revoked prior to the receipt by the secretary of the certificate under sub. (2).

SECTION 3. 343.325 (4) of the statutes, as affected by 1989 Wisconsin Act 7, is amended to read:

343.325 (4) If a person, whose suspension or revocation was stayed pursuant to sub. (2), is convicted of an offense for which revocation is mandatory under s. 343.31, during the pendency of the appeal of the original conviction, the secretary shall forthwith revoke such person's operating privilege on account of such convictions the latter conviction, notwithstanding the appeal of either or both convictions.

SECTION 4. 343.33 (title) and (3) of the statutes are amended to read:

343.33 (title) Hearing on suspensions and revocations.

(3) Upon completion of the hearing, the office of the commissioner of transportation shall make findings of fact and shall either let the order of suspension or revocation stand or, upon good cause appearing therefor, rescind the order of ~~revocation~~ or modify the period of suspension or revocation.

SECTION 5. 343.38 (4) (title) of the statutes is amended to read:

343.38 (4) (title) FIRST ISSUANCE OF LICENSE IN WISCONSIN AFTER SUSPENSION OR REVOCATION BY ANOTHER STATE.

SECTION 6. 344.24 of the statutes is amended to read:

344.24 Applicability of sections relating to proof of financial responsibility for the future. Sections 344.29 to 344.41 are applicable in all cases in which a person is required to deposit proof of financial responsibility for the future, including those cases in which a person is required to deposit proof of financial responsibility for the future under ss. 344.25 to 344.27 and those cases in which the deposit of proof of financial responsibility for the future is a condition precedent to issuance of an operator's license under s. 343.38 (4) or reinstatement of an operating privilege revoked pursuant to ch. 343.

SECTION 7. 344.29 of the statutes is amended to read:

344.29 Proof of financial responsibility for the future required. Proof of financial responsibility for the future shall be furnished by any person required to give such proof under ss. 344.25 to 344.27 and in those cases in which the deposit of proof of financial responsibility for the future is a condition precedent to issuance of an operator's license under s. 343.38 (4) or reinstatement of an operating privilege revoked under ch. 343.

SECTION 8. 344.40 (title) of the statutes is amended to read:

344.40 (title) Revocation for failure to maintain proof; other proof may be required.

SECTION 9. 344.45 (title) of the statutes is amended to read:

344.45 (title) Surrender of license and registration upon revocation or suspension.