

# State of Wisconsin



2005 Senate Bill 592

Date of enactment: April 14, 2006  
Date of publication\*: April 28, 2006

## 2005 WISCONSIN ACT 332

AN ACT to renumber 125.14 (6); to amend 343.305 (9) (a) (intro.) and 343.305 (9) (am) (intro.); and to create 125.14 (6) (title) and 125.14 (6) (b) of the statutes; relating to: discovery in implied consent cases involving drunken driving and in certain prosecutions for alcohol beverage violations.

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

**SECTION 1.** 125.14 (6) (title) of the statutes is created to read:

125.14 (6) (title) PROCEDURE.

**SECTION 2.** 125.14 (6) of the statutes is renumbered 125.14 (6) (a).

**SECTION 3.** 125.14 (6) (b) of the statutes is created to read:

125.14 (6) (b) *Discovery.* In a prosecution for a violation of this chapter that may result in the imposition of a forfeiture, neither party is entitled to pretrial discovery, except that, if the defendant moves within 30 days after the initial appearance in person or by an attorney and shows cause therefor, the court may order that the defendant be allowed to inspect documents, including lists of names and addresses of witnesses, if available, and to test under s. 804.09, under such conditions as the court prescribes, any devices used by the plaintiff to determine whether a violation has been committed.

**SECTION 4.** 343.305 (9) (a) (intro.) of the statutes is amended to read:

343.305 (9) (a) (intro.) If a person refuses to take a test under sub. (3) (a), the law enforcement officer shall immediately take possession of the person's license and

prepare a notice of intent to revoke, by court order under sub. (10), the person's operating privilege. If the person was driving or operating a commercial motor vehicle, the officer shall issue an out-of-service order to the person for the 24 hours after the refusal and notify the department in the manner prescribed by the department. The officer shall issue a copy of the notice of intent to revoke the privilege to the person and submit or mail a copy with the person's license to the circuit court for the county in which the arrest under sub. (3) (a) was made or to the municipal court in the municipality in which the arrest was made if the arrest was for a violation of a municipal ordinance under sub. (3) (a) and the municipality has a municipal court. The officer shall also mail a copy of the notice of intent to revoke to the attorney for that municipality or to the district attorney for that county, as appropriate, and to the department. Neither party is entitled to pretrial discovery in any refusal hearing, except that, if the defendant moves within 30 days after the initial appearance in person or by an attorney and shows cause therefor, the court may order that the defendant be allowed to inspect documents, including lists of names and addresses of witnesses, if available, and to test under s. 804.09, under such conditions as the court prescribes, any devices used by the plaintiff to determine whether a violation has been committed. The notice of intent to

\* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

revoke the person's operating privilege shall contain substantially all of the following information:

**SECTION 5.** 343.305 (9) (am) (intro.) of the statutes is amended to read:

343.305 (9) (am) (intro.) If a person driving or operating or on duty time with respect to a commercial motor vehicle refuses a test under sub. (3) (am), the law enforcement officer shall immediately take possession of the person's license, issue an out-of-service order to the person for the 24 hours after the refusal and notify the department in the manner prescribed by the department, and prepare a notice of intent to revoke, by court order under sub. (10), the person's operating privilege. The officer shall issue a copy of the notice of intent to revoke the privilege to the person and submit or mail a copy with the person's license to the circuit court for the county in which the refusal is made or to the municipal court in the municipality in which the refusal is made if the person's refusal was in violation of a municipal ordinance and the municipi-

pality has a municipal court. The officer shall also mail a copy of the notice of intent to revoke to the attorney for that municipality or to the district attorney for that county, as appropriate, and to the department. Neither party is entitled to pretrial discovery in any refusal hearing, except that, if the defendant moves within 30 days after the initial appearance in person or by an attorney and shows cause therefor, the court may order that the defendant be allowed to inspect documents, including lists of names and addresses of witnesses, if available, and to test under s. 804.09, under such conditions as the court prescribes, any devices used by the plaintiff to determine whether a violation has been committed. The notice of intent to revoke the person's operating privilege shall contain substantially all of the following information:

**SECTION 6. Initial applicability.**

(1) This act first applies to violations committed or refusals occurring on the effective date of this subsection.

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