



State of Wisconsin
1997 - 1998 LEGISLATURE

LRBa1659/1
TNF:jlg:lp

**SENATE AMENDMENT 1,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 1997 SENATE BILL 39**

February 12, 1998 – Offered by Senators RUDE and DRZEWIECKI.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 5, line 20: after that line insert:

3 “**SECTION 8r.** 345.26 (1) (b) 1. of the statutes, as affected by 1997 Wisconsin Act
4 27, is amended to read:

5 345.26 (1) (b) 1. If the person makes a deposit for a violation of a traffic
6 regulation, the person need not appear in court at the time fixed in the citation, and
7 the person will be deemed to have tendered a plea of no contest and submitted to a
8 forfeiture and a penalty assessment, if required by s. 165.87, a jail assessment, if
9 required by s. 302.46 (1), a railroad crossing improvement assessment, if required
10 by s. 346.495 or 346.65 (4r), and a crime laboratories and drug law enforcement
11 assessment, if required by s. 165.755, plus any applicable fees prescribed in ch. 814,

1 not to exceed the amount of the deposit that the court may accept as provided in s.
2 345.37; and

3 **SECTION 8rb.** 345.26 (2) (b) of the statutes, as affected by 1997 Wisconsin Act
4 27, is amended to read:

5 345.26 (2) (b) In addition to the amount in par. (a), the deposit shall include
6 court costs, including any applicable fees prescribed in ch. 814, any applicable
7 penalty assessment, any applicable jail assessment, any applicable railroad crossing
8 improvement assessment and any applicable crime laboratories and drug law
9 enforcement assessment.

10 **SECTION 8rd.** 345.36 (2) (b) of the statutes, as affected by 1997 Wisconsin Act
11 27, is amended to read:

12 345.36 (2) (b) Deem the nonappearance a plea of no contest and enter judgment
13 accordingly. If the defendant has posted bond for appearance at that date, the court
14 may also order the bond forfeited. The court shall promptly mail a copy of the
15 judgment to the defendant. The judgment shall allow not less than 20 days from the
16 date thereof for payment of any forfeiture, penalty assessment, jail assessment,
17 railroad crossing improvement assessment, crime laboratories and drug law
18 enforcement assessment and costs imposed. If the defendant moves to open the
19 judgment within 20 days after the date set for trial, and shows to the satisfaction of
20 the court that the failure to appear was due to mistake, inadvertence, surprise or
21 excusable neglect, the court shall open the judgment, reinstate the not guilty plea
22 and set a new trial date. The court may impose costs under s. 814.07. The court shall
23 immediately notify the department to delete the record of conviction based upon the
24 original judgment.

1 **SECTION 8rf.** 345.37 (1) (b) of the statutes, as affected by 1997 Wisconsin Act
2 27, is amended to read:

3 345.37 (1) (b) Deem the nonappearance a plea of no contest and enter judgment
4 accordingly. If the defendant has posted bond for appearance at that date, the court
5 may also order the bond forfeited. The court shall promptly mail a copy or notice of
6 the judgment to the defendant. The judgment shall allow not less than 20 days from
7 the date thereof for payment of any forfeiture, penalty assessment, railroad crossing
8 improvement assessment, crime laboratories and drug law enforcement assessment
9 and costs imposed. If the defendant moves to open the judgment within 6 months
10 after the court appearance date fixed in the citation, and shows to the satisfaction
11 of the court that the failure to appear was due to mistake, inadvertence, surprise or
12 excusable neglect, the court shall open the judgment, accept a not guilty plea and set
13 a trial date. The court may impose costs under s. 814.07. The court shall
14 immediately notify the department to delete the record of conviction based upon the
15 original judgment. If the offense involved is a nonmoving traffic violation and the
16 defendant is subject to s. 345.28 (5) (c), a default judgment may be entered and
17 opened as provided in s. 345.28 (5) (c).

18 **SECTION 8rg.** 345.37 (2) of the statutes, as affected by 1997 Wisconsin Act 27,
19 is amended to read:

20 345.37 (2) If the defendant has made a deposit under s. 345.26, the citation may
21 serve as the initial pleading and the defendant shall be deemed to have tendered a
22 plea of no contest and submitted to a forfeiture and a penalty assessment, if required
23 by s. 165.87, a jail assessment, if required by s. 302.46 (1), a railroad crossing
24 improvement assessment, if required by s. 346.495 or 346.65 (4r), and a crime
25 laboratories and drug law enforcement assessment, if required by s. 165.755, plus

1 costs, including any applicable fees prescribed in ch. 814, not exceeding the amount
2 of the deposit. The court may either accept the plea of no contest and enter judgment
3 accordingly, or reject the plea and issue a summons under ch. 968. If the defendant
4 fails to appear in response to the summons, the court shall issue a warrant under ch.
5 968. If the court accepts the plea of no contest, the defendant may move within 6
6 months after the date set for the appearance to withdraw the plea of no contest, open
7 the judgment and enter a plea of not guilty upon a showing to the satisfaction of the
8 court that the failure to appear was due to mistake, inadvertence, surprise or
9 excusable neglect. If on reopening the defendant is found not guilty, the court shall
10 immediately notify the department to delete the record of conviction based on the
11 original proceeding and shall order the defendant's deposit returned.

12 **SECTION 8rh.** 345.37 (5) of the statutes, as affected by 1997 Wisconsin Act 27,
13 is amended to read:

14 345.37 (5) Within 5 working days after forfeiture of deposit or entry of default
15 judgment, the official receiving the forfeiture, the penalty assessment, if required by
16 s. 165.87, the jail assessment, if required by s. 302.46 (1), the railroad crossing
17 improvement assessment, if required by s. 346.495 or 346.65 (4r), and the crime
18 laboratories and drug law enforcement assessment, if required by s. 165.755, shall
19 forward to the department a certification of the entry of default judgment or a
20 judgment of forfeiture.

21 **SECTION 8rj.** 345.47 (1) (intro.) of the statutes, as affected by 1997 Wisconsin
22 Act 27, is amended to read:

23 345.47 (1) (intro.) If the defendant is found guilty, the court may enter
24 judgment against the defendant for a monetary amount not to exceed the maximum
25 forfeiture, penalty assessment, if required by s. 165.87, the jail assessment, if

1 required by s. 302.46 (1), the railroad crossing improvement assessment, if required
2 by s. 346.495 or 346.65 (4r), and the crime laboratories and drug law enforcement
3 assessment, if required by s. 165.755, provided for the violation and for costs under
4 s. 345.53 and, in addition, may suspend or revoke his or her operating privilege under
5 s. 343.30. If the judgment is not paid, the court shall order:

6 **SECTION 8rk.** 345.47 (1) (b) of the statutes, as affected by 1997 Wisconsin Act
7 27, is amended to read:

8 345.47 (1) (b) In lieu of imprisonment and in addition to any other suspension
9 or revocation, that the defendant's operating privilege be suspended for 30 days or
10 until the person pays the forfeiture, the penalty assessment, if required by s. 165.87,
11 the jail assessment, if required by s. 302.46 (1), the railroad crossing improvement
12 assessment, if required by s. 346.495 or 346.65 (4r), and the crime laboratories and
13 drug law enforcement assessment, if required by s. 165.755, but not to exceed 5 years.
14 Suspension under this paragraph shall not affect the power of the court to suspend
15 or revoke under s. 343.30 or the power of the secretary to suspend or revoke the
16 operating privilege.

17 **SECTION 8rm.** 345.47 (1) (c) of the statutes, as affected by 1997 Wisconsin Act
18 27, is amended to read:

19 345.47 (1) (c) If a court or judge suspends an operating privilege under this
20 section, the court or judge shall immediately take possession of the suspended license
21 and shall forward it to the department together with the notice of suspension, which
22 shall clearly state that the suspension was for failure to pay a forfeiture, a penalty
23 assessment, if required by s. 165.87, a jail assessment, if required by s. 302.46 (1),
24 a railroad crossing improvement assessment, if required by s. 346.495 or 346.65 (4r),
25 and a crime laboratories and drug law enforcement assessment, if required by s.

1 165.755, imposed by the court. The notice of suspension and the suspended license,
2 if it is available, shall be forwarded to the department within 48 hours after the order
3 of suspension. If the forfeiture, penalty assessment, jail assessment, railroad
4 crossing improvement assessment and crime laboratories and drug law enforcement
5 assessment are paid during a period of suspension, the court or judge shall
6 immediately notify the department. Upon receipt of the notice and payment of the
7 reinstatement fee under s. 343.21 (1) (j), the department shall return the
8 surrendered license.

9 **SECTION 8rp.** 345.47 (2) of the statutes, as affected by 1997 Wisconsin Act 27,
10 is amended to read:

11 345.47 (2) The payment of any judgment may be suspended or deferred for not
12 more than 60 days in the discretion of the court. In cases where a deposit has been
13 made, any forfeitures, penalty assessments, jail assessments, railroad crossing
14 improvement assessments, crime laboratories and drug law enforcement
15 assessments and costs shall be taken out of the deposit and the balance, if any,
16 returned to the defendant.

17 **SECTION 8rr.** 345.47 (3) of the statutes, as affected by 1997 Wisconsin Act 27,
18 is amended to read:

19 345.47 (3) When a defendant is imprisoned for nonpayment of a forfeiture, a
20 penalty assessment, a jail assessment, a railroad crossing improvement assessment
21 or a crime laboratories and drug law enforcement assessment for an action brought
22 by a municipality located in more than one county, any commitment to a county
23 institution shall be to the county in which the action was tried.

24 **SECTION 8rt.** 345.49 (1) of the statutes, as affected by 1997 Wisconsin Act 27,
25 is amended to read:

1 345.49 (1) Any person imprisoned under s. 345.47 for nonpayment of a
2 forfeiture, a penalty assessment, if required by s. 165.87, a jail assessment, if
3 required by s. 302.46 (1), a railroad crossing improvement assessment, if required
4 by s. 346.495 or 346.65 (4r), or a crime laboratories and drug law enforcement
5 assessment, if required by s. 165.755, may, on request, be allowed to work under s.
6 303.08. If the person does work, earnings shall be applied on the unpaid forfeiture,
7 penalty assessment, jail assessment, railroad crossing improvement assessment or
8 crime laboratories and drug law enforcement assessment after payment of personal
9 board and expenses and support of personal dependents to the extent directed by the
10 court.

11 **SECTION 8rw.** 345.49 (2) of the statutes, as affected by 1997 Wisconsin Act 27,
12 is amended to read:

13 345.49 (2) Any person who is subject to imprisonment under s. 345.47 for
14 nonpayment of a forfeiture, penalty assessment, jail assessment, railroad crossing
15 improvement assessment or crime laboratories and drug law enforcement
16 assessment may be placed on probation to some person satisfactory to the court for
17 not more than 90 days or until the forfeiture, penalty assessment, jail assessment,
18 railroad crossing improvement assessment or crime laboratories and drug law
19 enforcement assessment is paid if that is done before expiration of the 90-day period.
20 The payment of the forfeiture, penalty assessment, jail assessment, railroad crossing
21 improvement assessment or crime laboratories and drug law enforcement
22 assessment during that period shall be a condition of the probation. If the forfeiture,
23 penalty assessment, jail assessment, railroad crossing improvement assessment or
24 crime laboratories and drug law enforcement assessment is not paid or the court

1 deems that the interests of justice require, probation may be terminated and the
2 defendant imprisoned as provided in sub. (1) or s. 345.47.

3 **SECTION 8ry.** 345.61 (2) (c) of the statutes, as affected by 1997 Wisconsin Act
4 27, is amended to read:

5 345.61 (2) (c) "Guaranteed arrest bond certificate" as used in this section means
6 any printed card or other certificate issued by an automobile club, association or
7 insurance company to any of its members or insureds, which card or certificate is
8 signed by the member or insureds and contains a printed statement that the
9 automobile club, association or insurance company and a surety company, or an
10 insurance company authorized to transact both automobile liability insurance and
11 surety business, guarantee the appearance of the persons whose signature appears
12 on the card or certificate and that they will in the event of failure of the person to
13 appear in court at the time of trial, pay any fine or forfeiture imposed on the person,
14 including the penalty assessment required by s. 165.87, the jail assessment required
15 by s. 302.46 (1), the railroad crossing improvement assessment required by s.
16 346.495 or 346.65 (4r) and the crime laboratories and drug law enforcement
17 assessment required by s. 165.755, in an amount not exceeding \$200, or \$1,000 as
18 provided in sub. (1) (b).".

19 **2.** Page 6, line 4: delete "fined" and substitute "required to forfeit".

20 **3.** Page 6, line 7: on lines 7, 9 and 10, delete "fine" and substitute "forfeiture".

21 **4.** Page 6, line 12: after "(3)" insert "If any deposit is made for an offense to
22 which this section applies, the person making the deposit shall also deposit a
23 sufficient amount to include the railroad crossing improvement assessment under
24 this section. If the deposit is forfeited, the amount of the railroad crossing

1 improvement assessment shall be transmitted to the state treasurer under sub. (4).
2 If the deposit is returned, the amount of the railroad crossing improvement
3 assessment shall also be returned.

4 (4)".

5 **5.** Page 7, line 2: delete "be fined" and substitute "forfeit".

6 **6.** Page 7, line 4: on lines 4, 6 and 7, delete "fine" and substitute "forfeiture".

7 **7.** Page 7, line 9: after "(c)" insert "If any deposit is made for an offense to which
8 this subsection applies, the person making the deposit shall also deposit a sufficient
9 amount to include the railroad crossing improvement assessment under this
10 subsection. If the deposit is forfeited, the amount of the railroad crossing
11 improvement assessment shall be transmitted to the state treasurer under par. (d).
12 If the deposit is returned, the amount of the railroad crossing improvement
13 assessment shall also be returned.

14 (d)".

15 **8.** Page 7, line 19: delete the material beginning with that line and ending with
16 page 11, line 11.

17

(END)