



1999 ASSEMBLY BILL 946

March 29, 2000 – Introduced by Representatives MONTGOMERY, HUEBSCH, KESTELL, RHOADES, SUDER, PETTIS, URBAN, STONE, MUSSER, LADWIG and MEYERHOFER, cosponsored by Senators BRESKE and GROBSCHMIDT. Referred to Committee on Transportation.

1 **AN ACT** *to renumber and amend* 943.21 (3); *to amend* 343.10 (1) (a), 343.10 (2)
2 (a) 1., 343.30 (5), 943.21 (title), 943.212 (title), 943.212 (1) (a) and 943.212 (4);
3 and *to create* 943.21 (1) (d), 943.21 (2r), 943.21 (3) (bm) and 943.21 (3m) of the
4 statutes; **relating to:** failure to pay for gasoline or diesel fuel, suspension of
5 operating privileges after conviction for theft of gasoline or diesel fuel and
6 providing penalties.

Analysis by the Legislative Reference Bureau

Current law prohibits a person from intentionally absconding without paying for taxicab service or without paying for beverage, food, lodging or other service or accommodation at a hotel, motel, campground, boarding or lodging house or restaurant. If a person is convicted of violating this prohibition, he or she may be fined not more than \$10,000 or imprisoned for not more than nine months or both, except that the maximum term of imprisonment increases to five years if the value of the service or accommodation exceeds \$1,000. In addition, current law provides for a special civil action for victims of this crime. Using this special civil action, a victim may recover the value of the service or accommodation involved in the crime, any other property damage resulting from the crime and limited exemplary damages and attorney fees.

This bill prohibits a person from intentionally absconding from a service station, garage or other place where gasoline or diesel fuel is sold at retail or offered

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for sale at retail without paying for the gasoline or diesel fuel. A person who violates this prohibition may be subject to a forfeiture (a civil monetary penalty) of not more than \$200. The bill also provides that in addition to the forfeiture, a court must suspend the person's motor vehicle operating privileges for not more than six months, except that the court must suspend the person's operating privileges for one year if the person has previously been convicted of absconding without paying for gasoline or diesel fuel. Finally, the bill extends the special civil action that covers crimes for absconding for services or accommodations to cover offenses involving absconding without paying for gasoline or diesel fuel.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 343.10 (1) (a) of the statutes is amended to read:

2 343.10 (1) (a) If a person's license or operating privilege is revoked or
3 suspended under this chapter or s. 767.303, 943.21 (3m) or 961.50 and if the person
4 is engaged in an occupation, including homemaking or full-time or part-time study,
5 or a trade making it essential that he or she operate a motor vehicle, the person, after
6 payment of the fee provided in sub. (6), may file an application with the department
7 setting forth in detail the need for operating a motor vehicle. No person may file more
8 than one application with respect to each revocation or suspension of the person's
9 license or operating privilege under this chapter or s. 767.303, 943.21 (3m) or 961.50,
10 except that this limitation does not apply to an application to amend an occupational
11 license restriction.

12 **SECTION 2.** 343.10 (2) (a) 1. of the statutes is amended to read:

13 343.10 (2) (a) 1. Except for a revocation or suspension that arose out of the same
14 incident or occurrence for which the person's license or operating privilege is
15 currently revoked or suspended, the person's license or operating privilege was not
16 revoked or suspended previously under this chapter or ch. 344 or s. 943.21 (3m) or

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1 961.50 within the one-year period immediately preceding the present revocation or
2 suspension, except as provided in s. 344.40.

3 **SECTION 3.** 343.30 (5) of the statutes is amended to read:

4 343.30 (5) No court may suspend or revoke an operating privilege except as
5 authorized by this chapter or ch. 345, 351 or 938 or s. 767.303, 800.09 (1) (c), 800.095
6 (4) (b) 4., 943.21 (3m) or 961.50. When a court revokes, suspends or restricts a
7 juvenile's operating privilege under ch. 938, the department of transportation shall
8 not disclose information concerning or relating to the revocation, suspension or
9 restriction to any person other than a court, district attorney, county corporation
10 counsel, city, village or town attorney, law enforcement agency, or the minor whose
11 operating privilege is revoked, suspended or restricted, or his or her parent or
12 guardian. Persons entitled to receive this information shall not disclose the
13 information to other persons or agencies.

14 **SECTION 4.** 943.21 (title) of the statutes is amended to read:

15 **943.21 (title) Fraud on hotel or restaurant keeper or, taxicab operator**
16 **or gas station.**

17 **SECTION 5.** 943.21 (1) (d) of the statutes is created to read:

18 943.21 (1) (d) Having obtained gasoline or diesel fuel from a service station,
19 garage or other place where gasoline or diesel fuel is sold at retail or offered for sale
20 at retail, intentionally absconds without paying for the gasoline or diesel fuel.

21 **SECTION 6.** 943.21 (2r) of the statutes is created to read:

22 943.21 (2r) The refusal to pay a service station, garage or other place where
23 gasoline or diesel fuel is sold at retail or offered for sale at retail the established
24 charge for gasoline or diesel fuel provided by the service station, garage or other place
25 constitutes prima facie evidence of an intent to abscond without payment.

ASSEMBLY BILL 946**SECTION 7**

1 **SECTION 7.** 943.21 (3) of the statutes is renumbered 943.21 (3) (am), and 943.21
2 (3) (am) (intro.), as renumbered, is amended to read:

3 943.21 (3) (am) (intro.) Whoever violates ~~this section~~ sub. (1) (a), (b) or (c):

4 **SECTION 8.** 943.21 (3) (bm) of the statutes is created to read:

5 943.21 (3) (bm) Whoever violates sub. (1) (d) is guilty of a Class D forfeiture.

6 **SECTION 9.** 943.21 (3m) of the statutes is created to read:

7 943.21 (3m) If a person is found to have violated sub. (1) (d) the court shall, in
8 addition to the penalty provided in sub. (3) (bm), suspend the person's operating
9 privilege, as defined in s. 340.01 (40), for not more than 6 months, except that if the
10 person has previously had his or her operating privilege suspended under this
11 subsection the court shall suspend the person's operating privilege for one year. The
12 court shall immediately take possession of any suspended license and forward it to
13 the department of transportation together with the judgment of violation and notice
14 of the suspension.

15 **SECTION 10.** 943.212 (title) of the statutes is amended to read:

16 **943.212 (title) Fraud on hotel or restaurant keeper ~~or~~ taxicab operator**
17 **or gas station; civil liability.**

18 **SECTION 11.** 943.212 (1) (a) of the statutes is amended to read:

19 943.212 (1) (a) The retail value of the beverage, food, lodging, accommodation,
20 gasoline or diesel fuel, transportation or service involved in the violation. A person
21 may recover under this paragraph only if he or she exercises due diligence in
22 demanding payment for the beverage, food, lodging, accommodation, gasoline or
23 diesel fuel, transportation or service.

24 **SECTION 12.** 943.212 (4) of the statutes is amended to read:

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1 943.212 (4) At least 20 days prior to commencing an action, as specified in s.
2 801.02, under this section, the plaintiff shall notify the defendant, by mail, of his or
3 her intent to bring the action and of the acts constituting the basis for the violation
4 of s. 943.21. The plaintiff shall send the notice by regular mail supported by an
5 affidavit of service of mailing or by a certificate of mailing obtained from the U.S. post
6 office from which the mailing was made. The plaintiff shall mail the notice to the
7 defendant's last-known address or to the address provided on the check or order. If
8 the defendant pays the amount due for the beverage, food, lodging, accommodation,
9 gasoline or diesel fuel, transportation or service prior to the commencement of the
10 action, he or she is not liable under this section.

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(END)