

State of Misconsin 2011 - 2012 LEGISLATURE



2011 SENATE BILL 398

January 24, 2012 – Introduced by Senators Lazich and Taylor, cosponsored by Representatives Petrowski, Endsley, Brooks, Krug, Marklein, A. Ott and Spanbauer. Referred to Committee on Transportation and Elections.

AN ACT to amend 343.305 (8) (b) 1. of the statutes; relating to: submitting written objections and appearing in person or by telephone at a hearing to review administrative suspension of motor vehicle operating privileges.

Analysis by the Legislative Reference Bureau

Current law prohibits a person from driving or operating a motor vehicle with a prohibited concentration of alcohol or a detectable amount of a controlled substance or while under the influence of an intoxicant (OWI). If a chemical test given to the person on suspicion of, or subsequent to arrest for, OWI indicates that the person has committed an OWI, the law enforcement officer seizes the person's driver's license, informs the person that his or her operating privilege is administratively suspended for six months, and provides the person with a written explanation of his or her right to request a review of the administrative suspension.

The written explanation of the person's right to review serves as a 30-day temporary license. The person may, within ten days, submit a written request for the Department of Transportation (DOT) to review his or her administrative suspension. Current law requires DOT to hold the review hearing in the county where the alleged offense took place within 30 days of the date the person received the written explanation of his or her right to review.

This bill allows the person to attend the review hearing in person or by telephone or to submit his or her objections to the administrative suspension in writing.

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For further information see the *state and local* 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:

SECTION 1. 343.305 (8) (b) 1. of the statutes is amended to read:

343.305 (8) (b) 1. Within 10 days after the notification under par. (a), or, if the notification is by mail, within 13 days, excluding Saturdays, Sundays and holidays, after the date of the mailing, the person may request, in writing, that the department review the administrative suspension. The review procedure is not subject to ch. 227. The department shall hold the hearing on the matter in the county in which the offense allegedly occurred or at the nearest office of the department if the offense allegedly occurred in a county in which the department does not maintain an office. The department shall hold a hearing regarding the administrative suspension within 30 days after the date of notification under par. (a). The person may appear in person or by telephone or may present his or her objections in writing without appearing in person or by telephone. At the hearing, the person may present evidence and may be represented by counsel. The arresting officer need not appear at the administrative hearing unless subpoenaed under s. 805.07, but he or she must submit a copy of his or her report and the results of the chemical test to the hearing examiner.

17 (END)