



Legislative Fiscal Bureau

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October 28, 2009

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Bill 134/Assembly Bill 178: Driver's License Withdrawals and Reinstatements

Senate Bill 134 was introduced on March 24, 2009, and referred to the Committee on Transportation, Tourism, Forestry, and Natural Resources. On May 1, 2009, that Committee recommended the bill for passage on a vote of 6 to 1. On May 12, 2009, the bill was referred to the Joint Committee on Finance.

Assembly Bill 178 was introduced on March 30, 2009, and referred to the Committee on Transportation. On May 7, 2009, that Committee recommended the bill for passage on a vote of 12 to 0. On June 23, 2009, the Assembly passed the bill on a vote of 62 to 34, and messaged the bill to the Senate, where it was referred to the Senate Committee on Transportation, Tourism, Forestry, and Natural Resources. On July 17, 2009, that Committee recommended concurrence on a vote of 6 to 1. On September 8, 2009, the bill was referred to the Joint Committee on Finance.

Senate Bill 134 and Assembly Bill 178 are identical.

SUMMARY OF SENATE BILL 134/ASSEMBLY BILL 178

Seizure of License by Courts Following License Withdrawal or Certain Traffic Offenses

Senate Bill 134/Assembly Bill 178 would eliminate requirements, applicable in various circumstances, that a court take possession of a driver's license that it has suspended or revoked and forward the license to the Department of Transportation, together with a statement of the circumstances surrounding the license withdrawal (including, for instance, the duration and reason for the withdrawal or notice of conviction). Instead, the bills would allow, but not require, a court to take possession of a driver's license following suspension or revocation. Under the bills, a court

would be required to destroy the license if the license is taken, rather than forward it to the Department. The court would continue to be required to send a notice to the Department indicating the circumstances surrounding the license withdrawal. The bills would modify a current law provision relating to automatic reinstatement following reversal of a conviction, to specify that if the court took possession of the person's license as the result of a suspension, revocation, or disqualification related to the offense, the Department would be required to reissue the license without requiring the payment of any additional fee.

In addition, the bills would eliminate a provision that requires a law enforcement officer to seize and forward to the Department the license of: (a) a person who submits to chemical testing upon request and the test indicates a prohibited alcohol concentration or a detectable amount of a restricted controlled substance; (b) a person who submits to chemical testing upon request and the test indicates a blood alcohol concentration above 0.0, if the person was operating a commercial motor vehicle or on duty time at the time the request was made; or (c) a person who refuses to submit to chemical testing upon request. The person would still be subject to applicable administrative license withdrawal in these circumstances. The bills would also eliminate a provision that allows a law enforcement officer to retain the license of a person with a commercial driver's license who was ordered out-of-service following an arrest for operating while intoxicated until the out-of-service order expires.

License Reinstatement or Reissuance Following Period of Withdrawal

The bills would modify various provisions related to the reinstatement or reissuance of licenses following suspension, revocation, cancellation, or disqualification (collectively referred to as "license withdrawals"), although provisions related to reinstatement after suspension and after disqualification are a reorganization and clarification of current law, rather than substantive changes. Under current law, a person must apply for a new license following a license revocation, cancellation, or disqualification, plus apply for reinstatement, which requires a \$50 reinstatement fee and a \$10 issuance fee. The new license issued upon reinstatement of a revoked or cancelled license carries an expiration date of two years following the person's next birthday, while a reinstated license following disqualification retains the same expiration date as the original disqualified license. Following a license suspension, the person must pay the license reinstatement and license issuance fee, but does not need to apply for a new license.

Regarding reinstatement following revocation, the bills would eliminate the requirement that a person apply for a new license. Instead, similar to regaining operating privileges following a license suspension, the person would only be required to pay the reinstatement and issuance fees for reinstatement to occur, and the reinstated license would retain the original expiration date.

In cases involving license cancellation, the bills would create two categories with different methods of regaining operating privileges. Under current law, the Department of Transportation is required to cancel a person's license for a variety of reasons, including for failure to pay license fees (payment with a bad check, for instance), if it is discovered that some information included in the license application was false, or if the person refuses to attend required driver improvement counseling. For a person under the age of 18, the Department must cancel a license if the parent or

other adult who co-signed the person's license application dies or requests withdrawal. Under the bills, a person whose license is cancelled because of nonpayment of fees or because the person's parent or adult co-signer of the license application dies or requests withdrawal (for person's under age 18), would not need to apply for a new license, but would continue to require license reinstatement, similar to reinstatement following a license revocation, as described above. In all other cases of cancellation (such as for fraudulent application, illegal modification of a license, or refusal to attend driver improvement counseling), the person would be required to both apply for a new license and pay the reinstatement and issuance fees, as under current law. The new license, in these cases (as under current law), would have an expiration date of two years following the person's next birthday.

The bills would also modify a provision related to the reinstatement of a nonresident's operating privileges that have been revoked or suspended in Wisconsin, to eliminate the prerequisite for reinstatement that the person obtain a valid operator's license issued in the person's home jurisdiction. Under this change, the nonresident's Wisconsin operating privileges would be reinstated upon payment of reinstatement and issuance fees.

Start Date for License Withdrawal

The bills would also modify the starting date for an operating privilege suspension or revocation of a person who is not eligible to hold a driver's license, either because of age or because his or her license is already suspended or revoked for another reason. Under current law, the suspension or revocation for such a person begins when the person becomes eligible and applies for a license, while under the bills, the period would begin when person becomes eligible to be issued a license.

Effective Date

These changes would first apply to convictions, suspensions, revocations, implied consent refusals, or reinstatements on the first day of the fifth month beginning after publication of the act.

FISCAL EFFECT

In its fiscal estimate for the bills, the Department of Transportation indicates that implementing the provisions would require data processing modifications to the driver licensing system, although the one-time cost of these modifications is indeterminate. [In its original fiscal estimate, the Department estimated the cost of these modifications at \$95,000, although in a updated fiscal estimate, the Department indicated that the cost was indeterminate. The Department indicates that the original estimate was mistaken, and that the extent of the necessary changes, and thus the estimated cost, has not yet been determined.] The Department indicates that the provisions of the bills would result in a decrease in workload, but the fiscal estimate does not quantify any savings associated with this decrease. The Department indicates that it could absorb any net cost associated with the bills.

Prepared by: Jon Dyck